The Inter-American Peace Committee
A Study of Dispute Settlement in the Organization of American States

by

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PREFACE

From the time of the First Pan American Conference in Washington in 1889-1890, the peaceful settlement of disputes has been one of the objectives of the inter-American system. The adoption of a plan for a multilateral arbitration treaty by that conference, though it was never ratified, presaged other, more successful efforts in the years following. By 1940, there were nine different treaties, protocols, and conventions in force covering the various procedures of pacific settlement. But because this collection of peace instruments had not proven satisfactory in practice, and because the unity of the Western Hemisphere in the face of the war in Europe might be threatened by inter-American disputes, the government of Haiti proposed at the Second Meeting of Ministers of Foreign Affairs in Havana the creation of a new peace instrument. The Haitian proposal was adopted and became Resolution XIV of that conference. The committee which was created as a result of that resolution became a highly useful tool of inter-American dispute settlement, the Inter-American Peace Committee.

This paper is divided into two parts. The first part describes the Peace Committee's organization and structure, the history of its operations, the effect upon it of national foreign policies, and compares its peaceful settlement efforts with those of other regional organizations. The second part analyzes the necessity for a community peaceful settlement mechanism in the development process, the efforts made to achieve such a mechanism, and the possible future direction such efforts may take.

The peaceful settlement of disputes in the inter-American community is a deep and complex subject. Research on it suffers from the limited availability of source material as well as the complicated issues. This paper attempts to uncover and analyze as much as possible of the background and issues involved in the development of an inter-American peaceful settlement mechanism.

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CHAPTER 1: BACKGROUND, ORGANIZATION AND STRUCTURE

Since the first International Conference in Washington in 1890, the pacific settlement of disputes has been one of the major goals of the Pan American movement. An arbitration treaty was drafted on the basis of the Plan of Arbitration of that conference, but it never went into effect because of lack of ratification. However, the treaty presaged further attempts at subsequent conferences. After several limited treaties on arbitration of pecuniary claims had been signed, the American states produced a series of eight treaties between 1923 and 1936 covering most of the existing procedures of pacific settlement. These treaties included: the Treaty to Avoid or Prevent Conflicts between the American States--the Gondra Treaty--of May 3, 1923, providing for a commission of inquiry to conduct an impartial investigation of the facts in all disputes not settled by diplomacy or arbitration and which did not involve constitutional provisions or matters previously settled by other treaties; the General Convention of Inter-American Conciliation of January 5, 1929, providing for a conciliation procedure based on and using the commissions of the Gondra Treaty; the General Treaty of Inter-American Arbitration and Additional Protocol of Progressive Arbitration, of January 5, 1929, providing for the arbitration of all justiciable disputes; the Anti-War Treaty of Non-Agression and Conciliation, of October 10, 1933, providing for an alternative procedure of conciliation to that of the 1929 treaty; the Additional Protocol to the General Convention of Inter-American Conciliation, of December 26, 1933, providing

for permanent rather than ad hoc commissions of Investigation and Conciliation for the Gondra Treaty and the 1929 conciliation treaty; the Inter-American Treaty on Good Offices and Mediation, of December 23, 1936, providing for mediation of disputes by an eminent citizen of the American states chosen by the disputants from a list compiled by the Pan American Union; the Treaty on the Prevention of Controversies of December 23, 1936, providing for a system of preventing future disputes through the use of bilateral mixed commissions to study possible causes of controversies and to propose measures for the application of treaties in force between the parties; and the Convention to Coordinate, Extend and Assure the Fulfillment of the Existing Treaties Between the American States, of December 23, 1936, providing a reaffirmation of previous treaty commitments.[1]

The patchwork peacekeeping system created by the above treaties was unsatisfactory. They were difficult to apply in practice, both because no treaty was ratified by all of the American states and because of the extent of the reservations attached by many states in ratifying the treaties. In most cases, the precedures established were neither compulsory nor binding; while the complex procedure and inherent delays in the selection of ad hoc conciliation commissions was to be corrected by the Additional Protocol of 1933 to the 1929 Conciliation Convention, only two of these permanent commissions were ever organized in practice.[2] The unsatisfactory state of the "system" of peaceful settlement existing in 1940 can be seen in the fact

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1. Ann van Wynen Thomas and A. J. Thomas, Jr., The Organization of American States (Dallas: Southern Methodist University Press, 1963), pp. 277-280.
2. Ibid., p. 281.

that only one dispute is known to have been settled by resort to any of these treaties. This was a Haiti-Dominican Republic border dispute in 1937, settled through use of the Gondra Treaty and the Conciliation Convention.[3]

The Second Meeting of the Ministers of Foreign Affairs of the American Republics took place at Havana, Cuba, from July 21-30, 1940. The danger of the European war to the Western Hemisphere had increased with the fall of France, and the sense of solidarity of the American states led the Foreign Ministers to agree to the Declaration of Reciprocal Assistance and Cooperation for the Defense of the Nations of the Americas. This declaration provided that an attack on any American state by a non-American state would be considered as an attack on all the signatories.[4] It did not cover any case of aggression between American states. While aggression between American states was not likely, even an unresolved dispute could endanger the hemisphere's solidarity in the face of the European threat. For this reason, Haiti submitted a resolution to the conference which called for the creation of "a committee composed of representatives of five countries, which shall have the duty of keeping constant vigilance to insure that States between which any dispute exists or may arise, of any nature whatsoever, may solve it as quickly as possible, and of suggesting, without detriment to the methods adopted by the parties or to the procedures which they may agree upon, the measures and steps which may be conducive to a settlement."[5] This resolution became Resolution

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3. Ibid., p. 487, n. 21.
4. Ibid., p. 210.
5. The Department of State Bulletin, August 24, 1940, p. 136.

XIV and was accepted with only one reservation--Peru felt that the Committee should function only at the request of the interested parties.[6] As will be seen later, the Peruvian reservation was eventually incorporated into the 1956 Statutes of the Peace Committee.

Resolution XIV was a distinct departure from previous practice in the inter-American system. It created a community organ, the committee, to take cognizance of and encourage the settlement of disputes, rather than rely solely on the fortuitous possibility that one of the existing procedures of pacific settlement would be applied. And its grant of power to the Governing Board of the Pan American Union to organize and select the Committee's membership, coupled with the powers given to the Governing Board with regard to the calling of meetings of consultation of the foreign ministers, came close to and perhaps did extend the Board's powers into the political field from which it was previously barred.[7] As the Committee itself noted later, the creation of a committee for the purposes stated in Resolution XIV "filled a gap left by the previous inter-American treaties, which did not establish any real organ for conciliation or mediation within the regional system."[8] The Committee's establishment did not, however, create any new obligations for disputing parties. While the Committee was to be constantly aware of the occurrence of disputes and was to suggest to the parties appropriate measures for settlement whenever deemed advisable, the

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6. Ibid., p. 144.
7. Thomas and Thomas, Organization, pp. 99-100; Arthur P. Whitaker, ed., Inter-American Affairs-1941 (New York: Columbia University Press, 1942), pp. 35-36.
8. OAS, Second Special Inter-American Conference, Report of the Inter-American Peace Committee on the Amendment of its Statutes, Submitted to the Second Special Inter-American Conference, Doc. 14 OEA/Ser. E/XIII. 1 (Washington: Pan American Union, 1965), p. 2.

parties to a dispute were to be under no legal obligation to accept or act upon the Committee's suggestions.[9] The Committee was, in short, to be a permanent conciliation commission on a multilateral basis, instead of on the merely bilateral basis of the commissions established under the 1929 Conciliation Convention or its 1933 Additional Protocol.

The Governing Board of the Pan American Union, acting on December 4, 1940, in accordance with Resolution XIV, established Washington, D.C., as the seat of the Committee. It selected the Committee membership geographically, choosing two northern countries (the United States and Mexico), two southern countries (Argentina and Brazil), and one country from Central America and the Antilles (Cuba).[10] Although the member countries were selected, no representatives were appointed at that time. Since the Committee was not constituted, no organization or operating rules were established. The Committee existed on paper only, and this situation continued throughout World War II.

The Committee of Resolution XIV continued its paper existence after World War II until its formal activation in 1948. No mention of the Committee was made in either the Charter of the Organization of American States or the American Treaty of Pacific Settlement (Pact of Bogota) both of which were produced by the Ninth International Conference of American States at Bogota in 1948. The fact that the Committee was overlooked at Bogota is usually attributed to the reason that it was not yet

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9. Thomas and Thomas, Organization, p. 125.
10. OAS, Tenth Inter-American Conference, Second Report of the Inter-American Peace Committee, Submitted to the Tenth Inter-American Conference, Doc. 11, SG-11, 3 February, 1954 (Washington: Pan American Union, 1954), p. 4.

constituted at that time.[11] Yet a request had been made for the installation of the Committee by the Ambassador of the Dominican Republic in a note sent to the Director General of the Pan American Union on September 23, 1947. And the Committee, to be known as the "Inter-American Committee on Methods for the Peaceful Solution of Conflicts," was installed by the Chairman of the Council of the OAS on July 31, 1948, only three months after the Bogota Conference.[12] Since Resolution XIV of 1940 was not one of the eight treaties, conventions, and protocols made ineffective by Article LVIII of the Pact of Bogota with respect to the ratifying parties, the legal basis of the Committee was still valid, although there was some question as to its relationship to the OAS. To clarify the relationship, and since the Inter-American Conference is the organ responsible for policy formation and determination of structure and function of OAS organs, the Council later decided to include a study of the status of the Committee on the agenda of the Tenth Inter-American Conference.[13]

Pending a determination of its exact legal status, the Committee began work. On the day of its installation, it elected its first Chairman, Ambassador Luis Quintanilla, the Representative of Mexico.[14] On August 13, 1948, almost 11 months after the Dominican Ambassador had requested installation of the Committee, it met to consider its first controversy, involving the Dominican Republic and Cuba.[15] The Committee operated without

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11. Annals of the Organization of American States, Vol. II (1950), p. 23.
12. OAS, Tenth Inter-American Conference, Second Report, p. 4.
13. Thomas and Thomas, Organization, p. 126.
14. OAS, Tenth Inter-American Conference, Second Report, p. 4.
15. Ibid., p. 5. The nature of the controversy and action taken by the Committee will be considered in Chapter 2.

a formal set of rules until August 24, 1948, when it adopted its "Bases of Action" for the conduct of its work and deliberations.[16] The "Bases" included the following powers and procedures: The Committee was to have jurisdiction over a dispute between two or more states when direct negotiations or usual diplomatic procedures had failed or when circumstances made negotiations impossible. It could meet at any American state's request or on its own initiative, but could act in the consideration of disputes between two or more states only at the request of one of the parties. The Committee could offer its good offices to the parties before suggesting more specific methods and steps to them, and could recommend that the parties make their pleas conform to the provisions of international law. The meetings of the Committee were to be closed, but all Committee actions and all documentation received were to be placed at the disposal of all parties. At the conclusion of the Committee's study of the claims and reports, it was, if it deemed advisable, to suggest methods and actions for achieving a friendly settlement. If the parties were able to reach agreement, the Committee was to deliver to them only the minutes containing the text of the agreement. However, if no agreement was reached, the minutes delivered were to contain a full account of the negotiations and the Committee's work. The Committee was to determine in each case the nature and timing of the publication of information. Committee reports on its work were to be made to each Meeting of Consultation and Inter-American Conference as required by Resolution XIV of 1940, and the Committee mem-

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16. OAS, Second Special Inter-American Conference, Report on Amendment, pp. 26-28.

bership was designated as the representatives of Argentina, Brazil, the United States, Mexico, and Cuba in conformity with the decision of the Governing Board of the Pan American Union in 1940. Majority vote was specified for both decisions on normal Committee business and amendment of the Bases of Action.[17]

On July 6, 1949, the Committee decided to simplify its name. The "Inter-American Committee on Methods for the Peaceful Solution of Conflicts" became simply the Inter-American Peace Committee. The Committee's permanence was furthered on May 24, 1950, by adopting a set of statutes to replace the "Bases of Action" of 1948, and copies were sent directly to all the American republics.[18] There was evidently no question of obtaining Council approval of the Statutes, since, although the old Governing Board of the Pan American Union had been authorized to establish and select the members of the Committee, the Committee was made responsible by Resolution XIV only to the Meetings of Ministers of Foreign Affairs and to the Inter-American Conferences.

In the 1950 Statutes, the Committee made several changes which considerably extended its competence and powers. Whereas in a dispute between two or more states the 1948 Bases of Action had limited the Committee to acting only at the request of any one of the parties (although it could meet on its own initiative or at the request of any American state), the 1950 Statutes

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17. Ibid.
18. OAS, Tenth Inter-American Conference, Second Report, pp. 5, 20-23. The 1950 Statutes may also be found in OAS, Second Special Inter-American Conference, Report on Amendment, pp. 29-32, and Annals of the OAS, Vol. 2, pp. 320-321.

imposed no such limitation. Paragraph 7 states:

> The Committee may take action at the request of any American State, when the recourse of direct negotiations has been exhausted, when none of the other customary procedures of diplomacy or of pacific settlement is in process or when existing circumstances render negotiation impracticable.[19]

Paragraph 12 further states:

> Any American State, whether or not it is a directly interested Party or is represented in the membership of the Committee, may, at any time, call the attention of that body to any inter-American dispute that, in the judgment of the said State, merits consideration by the Committee. The Committee shall proceed to study the corresponding petition, for which purpose it may request the cooperation of the directly interested States; and in due time it shall make known its opinion on the subject.[20]

In extending its powers to consider and take action in a dispute without necessarily having the concurrence of the parties, the Committee was bringing its competence more into conformity with Resolution XIV of 1940 which required that it keep "constant vigilance to insure that States between which any dispute exists or may arise . . . may solve it as quickly as possible . . . ."[21] That Resolution XIV did not intend that the consent of the parties necessarily be required may be deduced from the fact that Peru's reservation was specifically on this point.[22] The statement of the Committee's duties incorporated into paragraph 6 of the Statutes was, in fact, taken verbatim from Resolution XIV. Submission of a dispute

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19. OAS, Tenth Inter-American Conference, Second Report, p. 20.
20. Ibid., p. 21.
21. Ibid., p. 18.
22. Supra, p. 4.

by a directly interested party did make a difference in the way it was handled, however, in that the Charman was in that case to call for an immediate meeting of the Committee and to notify the other party or parties involved.[23]

The new Statutes did not specifically name the member countries on the Committee, stating only that it was "composed of Representatives of five American countries . . . ."[24] Although this might have been construed to permit countries other than the original members to serve on the Committee, no procedure for election or replacement of members was provided. Provision was made for the office of Chairman with a term of one year and rotation among the member countries in an order determined by drawing lots.[25] This provision merely formalized the arrangement which the Committee had been following since 1948. Most of the Committee procedures remained the same as they were under the Bases of Action, but meetings were hanceforth to be public rather than closed unless the Committee decided otherwise. In addition to informing Meetings of Consultation and Inter-American Conferences of disputes examined and action taken to effect settlement, the Committee was also to inform the OAS Secretary General and the UN Security Council.[26]

Though the 1950 Statutes clarified and formalized the Committee's own concept of its function and powers, there was still question as to the exact relationship of the Committee to the OAS. The OAS Council had approved a resolution

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23. OAS, Tenth Inter-American Conference, Second Report, p. 21.
24. Ibid., p. 20.
25. Ibid.
26. Ibid., pp. 21-22.

to include a study of the Peace Committee on the Agenda of the Tenth Inter-American Conference to be held in Caracas in 1954. In view of this fact, the Committee decided that it should make known to the Conference its own views concerning its organization and operation. The Committee therefore included a Draft Resolution on the Organization and Operation of the Inter-American Peace Committee in the report which it submitted to the Tenth Inter-American Conference. Approval of its suggestions would, the Committee felt, "ensure acceptance of the Committee as an even more representative agency of the community of American nations and enable it to carry on its duties more effectively."[27]

The Committee's Draft Resolution contained a number of very interesting changes from the 1950 Statutes. The most surprising of these changes were the restrictions which the Committee proposed to put on its competence to handle disputes. With regard to the consent of the parties, the Draft Resolution was even more restrictive than the 1948 Bases of Action had been. Once again, the Committee would deal with a dispute when requested to do so by only one of the interested parties. It could also act when the request came from an American state not a party to the dispute, but in such cases prior consent of the directly-interested parties would have to be obtained. The Committee was to be "limited to suggesting measures or steps conducive to the solution of the disputes or controversies," although "in considering a dis-

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27. Ibid., p. 2.

pute or controversy, the Committee may investigate the facts, with the express consent of the directly-interested Parties."[28] Rotation of membership was to be provided through the election by the Council of one new member each year, to serve for a five year term, and any member could be reelected.[29]

In its consideration of the status of the Peace Committee, the Tenth Inter-American Conference proposed no radical changes. Though it might logically be considered that the Peace Committee should be incorporated into the procedures of the Pact of Bogota, no suggestion of doing this was advanced at Caracas.[30] The Conference passed two resolutions concerning the Peace Committee. The first, Resolution CI, applauded "the fruitful work in the interest of the peace of the Continent, carried out in a timely and effective manner and in a lofty American Spirit by the Inter-American Peace Committee."[31] The second, Resolution CII, expressed the Conference's confidence in the Peace Committee and continued its existence within the inter-American system. It further requested the Council of the OAS "to prepare . . . a new statute for the Inter-American Peace Committee, based on the draft prepared by the Committee and submitted to this Conference, and taking also into consideration the various amendments and observations submitted by the governments to the Conference, as well as any that their representatives may submit when the

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28. Ibid., pp. 16-17.
29. Ibid., p. 15.
30. Thomas and Thomas, Organization, p. 126.
31. OAS, Second Special Inter-American Conference, Report on Amendment, p. 2.

Council discusses the matter."[32] The resolution also provided that the existing (1950) Statutes would continue in effect until new statutes were approved by the Council and that the draft statutes were to be submitted to the governments prior to Council approval.

After the Tenth Inter-American Conference ended, the Council established a Committee on Juridical-Political Matters for the purpose of studying the Conference resolutions in these areas. Among the resolutions to be studied was Resolution CII. As required by the terms of the resolution, this Committee prepared a new set of draft statutes. The Council transmitted these draft statutes to the governments on August 5, 1955. Written observations on this preliminary draft were submitted to the Council by the governments of Argentina, Brazil, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, and the United States. These observations were, in turn, referred to the Committee on Juridical-Political Matters. After further meetings in which the observations were considered, the Committee drafted a new text and submitted it to the Council with a report dated February 6, 1956. The Council, in six meetings from February 15, 1956, through May 9, 1956, considered the draft statutes and made several changes, finally approving the new Statutes of the Inter-American Peace Committee on the latter date.[33]

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32. OAS, Inter-American Peace Committee, Report of the Inter-American Peace Committee to the Second Special Inter-American Conference on the Activities of the Committee since the Tenth Inter-American Conference, 1954-1965, OEA/Ser. L/III/II. 10 (Washington: Pan American Union, 1965), p. 4.
33. Annals of the Organization of American States, Vol. VIII (1956), p. 194.

The 1956 Statutes of the Peace Committee are by far the most restrictive under which it has operated. They go further in this respect than the Committee's own 1954 draft had gone. The 1954 Committee draft would have permitted a non-party to bring a dispute to the Committee's attention, though consent of the parties to the dispute would have been required before the Committee could act. And if one of the parties to a dispute requested Committee action, the Committee would have had power to deal with the case even though the other party or parties did not consent. The 1956 Statutes provide that only a state directly concerned with a dispute can bring it to the Committee's attention, and that the Committee can not even then take up the dispute without the prior consent of the other party or parties.[34] The new Statutes provide for the rotation of members with terms of five years. However, re-election is prohibited for at least one year after a member's term expires. Extension of a member's term is provided if it expires while the Committee is acting on a particular case, but only for the duration of that case. And whereas under the 1950 Statutes a member of the Committee who was a national of a party to a dispute being considered was required only to abstain from voting, the 1956 Statutes require that under such circumstances that state may not act as a member of the Committee; the Committee is to request the Council to designate a substitute member for the consideration of that dispute.[35] If the Committee receives the consent of all

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34. OAS, Inter-American Peace Committee, Report on Activities, pp. 5-6; OAS, Inter-American Peace Committee, Statutes, Approved by the Council of the Organization of American States on May 9, 1956, OEA/Ser. L/III/I.1 (Washington: Pan American Union, 1963), pp. 2-3.
35. Ibid., pp. 1-2.

parties to a dispute to take up the case, it is to do so immediately. If it does not receive such consent, the Committee is restricted to transmitting all of the communications exchanged to the governments of all OAS member states and making reports to the OAS Council, the Meetings of Consultation, the Inter-American Conferences, and the UN Security Council. Any expenses which the Committee might incur in its activities in a particular dispute are to be defrayed by the parties to the dispute, although secretarial services and working facilities are still provided by the OAS General Secretariat. Unlike the 1950 Statutes which provided that amendments to the statutes could be adopted by a majority vote of the Committee, the 1956 Statutes provide that amendments are to be adopted by an Inter-American Conference based on proposals of any OAS member state or of the Peace Committee itself.[36] This last change has imposed a rigidity on the Peace Committee's structure which has made it less adaptable to changes in the international situation while ensuring that any changes in the Committee's functions or powers reflect the opinion of all of the OAS member states, rather than just that of the five Committee members.

No further changes have been made in the Peace Committee's Statutes since 1956. From 1956 until the Fifth Meeting of Consultation of Ministers of Foreign Affairs at Santiago in 1959, no requests were made for Committee action. In its report to the Fifth Meeting, the Peace Committee noted this fact and stated its opinion that the preference of the govern-

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36. Ibid., p. 3.

ments for other procedures to resolve disputes may have been due to the changes introduced in the 1956 Statutes.[37]

As a result of the above comment, the delegation of Ecuador to the Fifth Meeting proposed a draft resolution for the revision of the 1956 Statutes. "In order to restore [to] the Inter-American Peace Committee the effectiveness it formerly had," the draft resolution resolved "to request the Council of the Organization of American States to revise the present Statutes of the Inter-American Peace Committee, especially Articles 2, 7, 11, 12, and 15, for the purpose of restoring to that agency the powers needed to attain the objectives that inspired its creation at the Second Meeting of Consultation of Ministers of Foreign Affairs held in Havana in 1940."[38] The Fifth Meeting of Consultation, by Resolution VI, transmitted the draft resolution of Ecuador to the Inter-American Juridical Committee for study and a report.

The Inter-American Juridical Committee, in examining the Ecuadorian resolution and the past history of Peace Committee activities, found difficulty in making a concrete recommendation with respect to the proposed enlargement of the Peace Committee's powers. The Juridical Committee noted that the Tenth Inter-American Conference had stated its confidence in the Peace Committee and had said nothing about restricting the powers of that committee.[39] It could, instead of provid-

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37. OAS, Fifth Meeting of Consultation of Ministers of Foreign Affairs, Report of the Inter-American Peace Committee to the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Doc. 5, 6 August 1959 (Washington: Pan American Union, 1959), pp. 3-4.
38. OAS, Inter-American Juridical Committee, Study by the Inter-American Juridical Committee of the Proposal of Ecuador Concerning the Inter-American Peace Committee, Doc. CIJ-50 (Washington: Pan American Union, 1959), p. 3.
39. Ibid., p. 7.

ing that the 1950 Statutes were to continue in force until new ones were approved by the Council, have specified provisional rules of jurisdiction to the Committee--if, in fact, its intention was to restrict the Committee's powers. That it did not do so could be cited, said the Juridical Committee, to show that, in a sense, the Conference "supported the broader jurisdiction of the 1950 statutes."[40] The restriction on Committee action at third-party request proposed in the Peace Committee's 1954 draft resolution was noted, but the Juridical Committee felt that this proposal "was probably justified on the ground that thereby the Committee might anticipate any tendency toward restricting its jurisdiction."[41] In any event, the Juridical Committee thought that the 1954 draft resolution was closer to the 1950 Statutes than to the 1956 rules.[42] The Juridical Committee noted that the Peace Committee derived its right to existence from Resolution XIV of the Second Meeting of Consultation of Ministers of Foreign Affairs. However, the Committee stated that from the language of Resolution XIV it could draw no inference as to which of the two Statutes, 1950 or 1956, conformed more closely.[43] Therefore, the Committee decided to take no stand with regard to the Peace Committee's powers. It indicated that it felt that the jurisdiction of the Peace Committee should be more precisely delineated by an Inter-American Conference and, until that time, "the American governments must decide the question according

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40. Ibid., p. 8.
41. Ibid., p. 7.
42. Ibid., p. 8.
43. Ibid., pp. 10-11.

to the greater or lesser success obtained respectively by applying the statutes of 1950 or those of 1956."[44]

The 1959 Meeting of Consultation was called to study the international tension in the Caribbean area. The foreign ministers considered that the Peace Committee was an appropriate entity for assisting in the realization of the purposes for which the meeting was convoked, and conferred new powers upon the Committee in Resolution IV of the Meeting. The Committee was directed to study and report on these topics: methods and procedures to prevent external activities designed to overthrow existing governments or provoke intervention or aggression; the relationship between human rights violations or lack of representative democracy on one hand and political tensions endangering hemispheric peace on the other; and the relationship between economic underdevelopment and political instability.[45] The Committee was empowered in the performance of these duties to take action "at the request of governments or on its own initiative" and, in either case, to obtain the express consent of states before conducting investigations in their territories.[46] The new powers were to be effective only until the close of the Eleventh Inter-American Conference which would decide whether or not to include them in the Statutes.[47]

The Peace Committee, after submitting routine reports, which included its activities under Resolution IV, to the Seventh and Eighth Meetings of Consultation of Ministers of

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44. Ibid., p. 11.
45. Thomas and Thomas, Organization, p. 128; CAS, Inter-American Peace Committee, Statutes, p. 5.
46. Ibid., p. 6.
47. Ibid..

Foreign Affairs, submitted a special report concerning Resolution IV to the Second Special Inter-American Conference at Rio de Janeiro in 1965.[48] In this special report, the Committee expressed its views concerning the special duties and powers provisionally granted to it in the 1959 resolution. With regard to the situation of concern to the Council in 1959 and the various security, political, economic, social, cultural and other problems it was expected to consider, the Committee pointed out "the difficulty of embarking on the study of a situation which includes nearly all the problems of the hemisphere and in which, as regards the Caribbean situation, the Committee's competence is not clearly defined."[49] The Committee noted that the topics which it was to study under paragraph 1. of Resolution IV were being covered in other ways. The Cuban situation had been handled by the Organ of Consultation at Punta del Este and Washington, D.C. in 1962 and 1964, respectively; an Inter-American Commission on Human Rights had been established by the Fifth Meeting of Consultation and had submitted special reports in its field both for the Caribbean and for the rest of the hemisphere; and the agenda of the Second Special Inter-American Conference included a topic on the effective exercise of representative democracy.[50] The Committee pointed out that clarification was needed between its functions under Resolution IV and those

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48. OAS, Second Special Inter-American Conference, Special Report of the Inter-American Peace Committee called for in Paragraph 3 of Resolution IV of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Submitted to the Second Special Inter-American Conference, Doc. 39, OEA/Ser. E/XIII.1 (Washington: Pan American Union, 1965).
49. Ibid., p. 2.
50. Ibid., p. 3.

of other committees assigned to deal with security questions. The Committee felt that it "should not be vested with functions of an investigatory nature which have no basis in its statutes or which conflict with its mission of suggesting methods and procedures for the solution of international differences."[51] As a result of this special report, the Second Special Inter-American Conference, in Resolution XVIII, terminated the powers provisionally vested in the Inter-American Peace Committee.[52]

The Second Special Inter-American Conference also considered the question of amendment of the Statutes of the Inter-American Peace Committee. The Conference had before it the Peace Committee's report concerning the amendment of its statutes, its report pursuant to Resolution IV of 1959, a draft resolution presented by the delegation of Haiti concerning the competence of the Peace Committee, and the Inter-American Juridical Committee's study of Ecuador's 1959 draft resolution. Considering these reports and resolutions and the minutes of the meetings of its Committee III, the Conference resolved, also in Resolution XVIII, to submit all of the documents to the Council of the OAS for determination, after consultation with the member states, of the desirability of amending the Peace Committee's Statutes. April 1, 1966, was set as the closing date for the consultations with the member states. If the Council determined amendment to be desirable, it was to amend the Statutes in accordance with the member states' observations. However, the Conference specifically instructed

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51. Ibid., pp. 4-5.
52. OAS, Second Special Inter-American Conference, Final Act, OEA/Ser. C/I.13 (Washington: Pan American Union, 1965), pp. 29-30.

the Council not to include any of the powers which the Peace Committee had been granted under Resolution IV of 1959 and which had just been terminated.[53] The intent of this final provision is not entirely clear. The "powers" granted to the Peace Committee under Resolution IV included the authority to take action at the request of any government or on its own initiative. These powers were similar to those which the Peace Committee had had prior to 1956 and which the various proposals for amendment were intended to restore. If the Conference intended to preclude the granting of such powers in any possible amendments to the Statutes, there would seem to be little point in further attempts to broaden the Committee's powers. However, it is possible that the intent of the Conference was rather to preclude the granting of competence to the Peace Committee in any of the three areas with which Resolution IV had been concerned, that is, security, human rights, and economic underdevelopment. If this is the case, the Conference's prohibition would be fully in accord with the desires of the Peace Committee itself--as expressed in its special report to the Conference.

The period of consultation with the OAS member states is still in progress, and until a decision is made to amend the Statutes, the Peace Committee will continue to be governed by the 1956 Statutes--no longer modified by Resolution IV's additional grant of powers. Under the 1956 Statutes, only two cases have been considered by the Peace Committee, as opposed to ten cases under the 1948 Bases of Action and 1950 Statutes

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53. Ibid., p. 30.

and six cases under Resolution IV of 1959.

Membership in the Inter-American Peace Committee did not change from the initial selection of states by the Governing Board of the Pan American Union on December 4, 1940, until the adoption of the present Statutes by the Council of the OAS on May 9, 1956. The initial members were the United States, Mexico, Brazil, Argentina, and Cuba. On August 6, 1956, the Council, acting in accordance with the transitory article of the new statutes, reelected the original five members of the Peace Committee for terms varying from one to five years so that one new member would be elected each year thereafter. The terms were: Cuba--one year, Argentina--two years, Brazil--three years, United States--four years, and Mexico--five years. Since 1957, the following countries have been elected for five year terms to replace the outgoing members:

El Salvador	1957-1962
Uruguay	1958-1963
Venezuela	1959-1964
Colombia	1960-1965
United States	1961-1966
Dominican Republic	1962-1967
Argentina	1963-1968
Nicaragua	1964-1969
Brazil	1965-1970[54]

It may be noted that the United States has been a member of the Committee for all but one year, 1960-1961. This one year period is the mandatory minimum lapse before a particular country can again be elected under the 1956 Statutes. Since the rotation of members began under the 1956 Statutes, only two other countries have been reelected to membership--Argentina

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54. OAS, Inter-American Peace Committee, Report on Activities, p. 62.

after a lapse of five years, and Brazil after a lapse of six years.

CHAPTER 2: PEACE COMMITTEE OPERATIONS

Although the creation of the Inter-American Peace Committee was authorized by the foreign ministers in 1940 and selection of the member countries was made by the Governing Board of the Pan American Union in December of that year, operations of the Committee did not begin until the summer of 1948. The reason for this lengthy delay in activating the Committee is not clear. The wording of Resolution XIV of 1940 gives no indication that installation of the Committee was to depend on the existence of a specific dispute or the request of a particular nation. The Resolution's basis lay in the assertion that "it is imperative that differences existing between some of the American nations be settled."[1] Use of the phrases "keeping constant vigilance" and "between which any dispute exists or may arise" would seem to indicate that the intent of the foreign ministers was to have the Committee organized and activated as soon as possible.[2] The fact that organization of the Committee went no further than the naming of the member countries could perhaps be attributed to the opinion that the existing differences were not amenable to conciliation by such a committee or that they did not, in fact, endanger the solidarity of the hemisphere. The foreign ministers meeting at Havana certainly had more to occupy their interest and concern in the existing extra-hemispheric threat and its subsequent development. Possibly the inter-American "differences" that occasioned Resolution XIV so paled in compar-

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1. The Department of State Bulletin, August 24, 1940, p. 136.
2. Ibid.

ison with the existing war in Europe and the World War which followed that active efforts to settle them were deemed unnecessary until world peace was again achieved. With one exception, peaceful relations were maintained between the American nations during the war, and no occasion was found for activation of the Committee. The exception was a dispute over boundaries between Ecuador and Peru which, after Peruvian occupation of the port of Guayaquil, resulted in signature of a Protocol of Peace, Friendship and Boundaries at the Third Meeting of Ministers of Foreign Affairs at Rio de Janeiro in 1942.[3] Efforts of the committee recommended by Resolution XIV might have aided in the solution of this dispute; however, since the foreign ministers were themselves available at the time, conciliation could be applied on a higher level. A solution was achieved in the form of the Protocol referred to above, and, apparently, no question of activation of the Peace Committee was raised.

Although no situation or dispute arose during World War II which occasioned activation of the Resolution XIV committee, the course of post-war events in the Caribbean-Central American area was to provide numerous opportunities for its employment. Political instability had always been endemic among the nine small countries in the area. Disparities in wealth and privilege arising from the existing patterns of monoculture and land tenure heightened political unrest, and social and economic pressures for change grew rapidly, encouraged by such declarations of political, economic and social rights as were enunci-

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3. The New York Times, March 13, 1966; Ann van Wynen Thomas and A. J. Thomas, Jr., The Organization of American States, pp. 314-315, 493 n. 53.

ated in the Rio Treaty preamble and the American Declaration of the Rights and Duties of Man.[4] There were, moreover, political and ideological tensions between authoritarian and democratic or democratically-inclined regimes. This latent suspicion and hostility was exacerbated by the activities of political exiles, the large unregulated post-war flow of arms into the area, and poor governmental supervision and control of borders which made it possible for unauthorized, irresponsible persons to obtain these arms.[5] Deeply involved in the agitation causing these tensions was an organization called the "Caribbean Legion." This group, tacitly supported by Costa Rica, Guatemala, and Cuba, was dedicated to overthrowing the area's dictatorships--primarily those of Somoza in Nicaragua and Trujillo in the Dominican Republic. The Legion, composed of political exiles, adventurers, and mercenaries, was allowed to use the territories of Costa Rica, Guatemala, and Cuba for such illegal activities as organizing and training invasion expeditions, arms traffic, and aircraft operations. Nicaragua and the Dominican Republic retaliated by supporting subversive and revolutionary movements aimed at overthrowing the Costa Rican, Guatemalan, and Cuban governments.[6]

The incidents generated by the above activities came to the attention of the OAS both as requests for action by the Peace Committee and for convocation of a Meeting of Consultation of Ministers of Foreign Affairs--the latter primarily in cases

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4. Thomas and Thomas, Organization, pp. 222-224; Edgar S. Furniss, Jr., "The Inter-American System and Recent Caribbean Disputes," International Organization, Vol IV (1950), p. 585.
5. Ibid., p. 586.
6. Thomas and Thomas, Organization, p. 228.

where actual armed attacks or invasions by exile groups had occurred. The first of these cases was the one which brought to life the long-dormant Resolution XIV of 1940. On September 23, 1947, shortly after the conference which created the Rio Treaty had ended, the Dominican Ambassador presented a request to the Director General of the Pan American Union for installation of the Committee. At the time, no specific controversy was mentioned. After an unexplained 10-month delay--during which the Ninth International Conference of American States met at Bogota and created the Organization of American States--the "necessary steps" for the appointment of member country representatives had been taken and the Inter-American Committee on Methods for the Peaceful Solution of Conflicts was installed by the Chairman of the OAS Council.[7] Two weeks later, on August 13, 1948, the Committee met and received a special delegation from the Dominican Republic. The Dominican Republic requested the Committee's assistance in resolving a situation in which it charged that Cuba was permitting the use of its territory by persons planning to invade the Dominican Republic. After informing the Cuban government of the request, the Committee held a number of meetings both with and without the Parties' representatives.[8] Finally, in a meeting held on September 9, 1948, after a plea by the Committee Chairman to attempt to reach a settlement at that meeting, the Parties agreed to seek a solution by direct negotiation through normal diplomatic channels.[9]

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7. OAS, Tenth Inter-American Conference, Second Report of the Inter-American Peace Committee, Submitted to the Tenth Inter-American Conference, p. 4.
8. Ibid., p. 5.
9. Ibid., pp. 24-26.

The second case handled by the Committee was an outgrowth of an attempt by Haiti to invoke the Rio Treaty for the second time. (The first resort to the Rio Treaty occurred in December, 1948, when Costa Rica charged that an armed force had invaded its territory from Nicaragua. In that case, a Meeting of Consultation was convoked without setting a date, and the OAS Council handled the dispute in its capacity as Provisional Organ of Consultation.) In this case, Haiti requested, in a letter dated February 15, 1949, that the Council constitute itself as a Provisional Organ of Consultation, and then charged that the Dominican Republic had committed "moral aggression" in permitting a former Haitian army colonel, Astrel Roland, to conduct a radio campaign of violent propaganda attacks on the Haitian government.[10] Roland was holding a Haitian diplomatic post in Ciudad Trujillo when he rebelled, sought asylum from the Dominican government, and began his propaganda campaign. The Haitian government, after first protesting to the Dominican Republic, requested application of the Rio Treaty by the OAS Council. Since the inviolability or integrity of the territory, sovereignty, or political independence of Haiti were not affected, the Council concluded that the dispute did not come within the provisions of the Rio Treaty. It recommended that the parties settle the dispute by peaceful means in accordance with existing treaties.[11]

The case came before the Peace Committee on the basis of a note from the government of Haiti. The Committee met on

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10. Thomas and Thomas, Organization, pp. 298-299.
11. Ibid., p. 299; "Mission Completed: A Dispute Between Haiti and the Dominican Republic," Americas, Vol.1, No. 6 (August, 1949), p. 23.

March 24, 1949, to consider the Haitian request and then notified the Dominican government. The Committee met several times with the representatives of the Parties and then decided, with the consent of both governments, to send a delegation to visit both countries. The delegation, composed of the Argentine, United States, and Mexican ambassadors, visited Port-au-Prince and Ciudad Trujillo during the week of May 29 to June 4, 1949. While in each capital, the delegation conferred with the President, Minister of Foreign Affairs, and other high officials. The delegation succeeded in drafting a joint declaration and obtaining the approval of both Ministers of Foreign Affairs. The declaration reaffirmed the parties' Good Neighbor objectives, stated their intentions not to tolerate subversive activities aimed at each other, and promised to resort to direct negotiation or other peaceful procedures in future disputes. The Committee held a special meeting on June 9, 1949, at which time the joint declaration was read. It was published simultaneously in both capitals on June 10, 1949.[12]

Notwithstanding its pledge, the Dominican government permitted the subversive activities to continue. After the Haitian police had put down a armed conspiracy in November and December, 1949, the Haitian government again invoked the Rio Treaty against Haiti and several other Caribbean governments. In this case, the Council did invoke the Rio Treaty and handled the case acting as Provisional Organ of Consultation in the same manner as it had done in the Costa Rican-Nicaraguan case.[13]

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12. OAS, Tenth Inter-American Conference, Second Report, pp. 6-7, 27-29.
13. Thomas and Thomas, Organization, pp. 299-302.

The third case was brought before the Committee, now known (since July 6, 1949) as the Inter-American Peace Committee, on August 3, 1949. The Committee's good offices were requested by the government of Cuba to assist in finding a solution to a controversy with the government of Peru over the granting of asylum by the Cuban Embassy in Lima to two Peruvian citizens on December 29, 1948. Committee action was rendered unnecessary and the case was closed when the Cuban government reported on August 17th that the asylees had left the Embassy on August 14th.[14]

The Peace Committee's fourth case was not a specific dispute, but rather the general question of Caribbean political tensions. The Committee met on August 3, 1949, at the request of the United States representative, Ambassador Paul C. Daniels, to consider the Caribbean situation. The Committee informed the other OAS Council representatives of the situation and requested that it be furnished any information or suggestions which their governments might with to offer. In reply to this request, observations and information were sent to the Committee by the governments of Costa Rica, Cuba, the Dominican Republic, Guatemala, Haiti, Nicaragua, the United States, and Venezuela.[15]

The Committee studied the problem carefully and, in a public meeting on September 14, 1949, adopted a series of conclusions concerning the Caribbean situation. In "calling to the attention of the American conscience the lofty and indispensable postulates of our international relationships," the Committee stated that it believed that

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14. CAS, Tenth Inter-American Conference, Second Report, p. 7.
15. Ibid., pp. 7-8.

> its duty in this matter is limited to the solemn reaffirmation of certain standards and principles that are basic for American peace and solidarity, principles and standards whose proper observance would, in the opinion of the Committee, not only keep such a situation as the one under consideration from arising, but avoid even the slightest symptom of disturbed relations among the American States.[16]

Among the principles and standards which the Committee stated in its conclusions were the "basic principle" of non-intervention; a state's duty to prevent the use of its territory for preparing or initiating aggression against a state with which it is at peace--a principle formalized in the Convention on the Rights and Duties of States in the Event of Civil Strife, signed in 1928; the OAS Council Resolution of December 24, 1948, in the Costa Rican-Nicaraguan case, recommending that states rid their territories of such conspiratorial groups; the desirability of avoiding hostile and systematic propaganda against other countries or governments; the desirability of maintaining friendly diplomatic relations among the American States; the "common denominator" of democracy in American political life; and the various methods within the inter-American system for the pacific settlement of disputes.[17]

This case was the first one in which a general situation of unrest rather than a specific dispute between particular parties was brought before the Peace Committee. Three of the five Representatives on the Committee made statements concerning the Committee's competence under Resolution XIV to handle such general situations. Ambassador Luis Quintanilla, the Representative

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16. Ibid., p. 30; Annals of the OAS, Vol. I, p. 393.
17. OAS, Tenth Inter-American Conference, Second Report, pp. 30-33.

of Mexico and Chairman of the Committee, expressed his delegation's doubt as to the Committee's juridical competence to deal with general situations, since Resolution XIV of 1940 had charged the Committee only with insuring the solution of disputes which exist or may arise between states.[18] This interpretation of Resolution XIV is open to question, however, since in "keeping constant vigilance" to insure that disputes which may arise in the future are quickly settled, the Committee could logically be expected to consider general situations of tension from which a dispute might arise. The question of interpretation in this case may be compared to that discussed in Chapter 1 in which the Inter-American Juridical Committee declined to interpret Resolution XIV with respect to the provisions of the 1950 and 1956 Statutes regarding consent of the parties to a dispute.[19] In the absence of a decision on the matter by an Inter-American Conference or Meeting of Ministers of Foreign Affairs, neither interpretation can be proven correct. The Argentine Representative, Ambassador Enrique Corominas, after his delegation had considered the question of the Committee's competence in this case, would make no observations on it regarding the Committee's conclusions. The third statement, by the Cuban Representative, Ambassador Gonzalo Guell, presented the opposite view to that of Mexico, and supported the "inter-American universality" of the Committee's work.[20] (The Mexican delegation's doubts concerning the Committee's competence did not preclude its active participation in the Committee's discussion and conclusions on the Caribbean question.)

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18. Ibid., pp. 8-9.
19. Supra, p. 17.
20. OAS, Tenth Inter-American Conference, Second Report, p. 9.

The fifth case handled by the Peace Committee resulted from allegations made in news reports from official Dominican government agencies that preparations were being made on Cuban territory for an invasion of the Dominican Republic. These charges were immediately denied by the Cuban government.[21] A week later, on December 6, 1949, Cuban Ambassador Gonzalo Guell addressed a note to the Peace Committee outlining and refuting the Dominican charges, and inviting the Peace Committee to visit the site of the alleged incidents to confirm the absence of any such activities.[22] The Committee, however, meeting on December 13th, decided to accept Cuba's categorical assurances that it did not and would not tolerate illegal activities against another government. In a letter dated December 16, 1949, Ambassador Hildebrando Accioly of Brazil, Chairman of the Committee since replacing Luis Quintanilla on November 2nd, declined the Cuban government's invitation.[23]

In this case, as in the asylum case involving Cuba and Peru, the Committee did not become involved to the extent of performing an actual conciliatory role. Only one of the parties appeared before the Committee in each case--indeed, the Committee did not even attempt to bring the parties together, and the Committee dropped the cases without attempting or achieving any agreement with the other party.

The brewing Caribbean storm was not quelled, either by the Peace Committee's study and conclusions on the general causes of unrest or by its support for Cuba in its budding controversy

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21. The New York Times, November 30, 1949.
22. The New York Times, December 8, 1949; OAS, Tenth Inter-American Conference, Second Report, pp. 20-21, 34.
23. Ibid., p. 34.

with the Dominican Republic. In fact, the day prior to the Committee's December 13th meeting to discuss Cuba's denial of the Dominican allegations, President Trujillo of the Dominican Republic requested from his Congress the power to declare war on countries which supported movements and activities directed at his overthrow.[24] After a two-week delay, Trujillo received this power, and still another situation arose in which the Committee acted without hearing the party against whom a complaint was lodged.[25] There was no formal complaint in this case, but the grant to Trujillo of the power to declare war was discussed by the Committee, and in a letter to Dominican Ambassador Salazar on December 29, 1949, Chairman Accioly expressed the Committee's grave concern. He pointed out the provisions of the Rio Treaty (Articles 3, 6, and 9) which provide for collective assistance to an American State which suffers an attack, whether armed or not, and the formal renunciations of war and pledges of resort to methods of peaceful settlement of all disputes.[26]

This letter apparently did not have the intended effect on the Dominican government: As previously noted, Haiti came before the OAS Council less than a week later to invoke the Rio Treaty against the Dominican Republic for its complicity in armed conspiracies against the Haitian government.[27]

The above six cases were the only ones handled by the Peace Committee under the Bases of Action which it adopted in 1948. On May 24, 1950, the Committee adopted its first Statutes under which, as noted in Chapter 1, the Committee extended its own

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24. The New York Times, December 13, 1949.
25. The New York Times, December 27, 1949.
26. OAS, Tenth Inter-American Conference, Second Report, p. 36.
27. Supra, p. 29.

powers enabling it to take action without the request or concurrence of the parties directly interested in a dispute.

No further cases were considered by the Peace Committee for almost two years. In the interim, the Korean War began, and the Caribbean area faded from the spotlight. And possibly the Peace Committee's 1949 conclusions regarding the Caribbean situation had some effect in calming the existing tensions.

The tensions did not remain subdued for long, however. In the first of the four cases it was to handle under the 1950 Statutes, the Cuban-Dominican quarrel erupted again in November, 1951. On November 25, 1951, the Dominican Republic seized a group of sailors including five Cubans on an ex-U.S. World War II landing craft named "Quetzal" and charged them with "plotting."[28] The following day, Cuban Ambassador Guell presented a note to the Peace Committee requesting its services in solving the problem that had arisen in obtaining the freedom of the Cuban sailors. After being informed by the Committee of the Cuban request, the Dominican government replied on December 7th with its own request that the Committee suggest a method for settling its controversies with Cuba dating back to the dispute which resulted in the Peace Committee's first case in 1948. A series of Committee meetings followed, attended by the foreign ministers of both governments. A successful culmination of the Peace Committee's efforts was reached on the night of December 25, 1951, when the Cuban and Dominican representatives signed a declaration in which they stated the intention of their governments to be guided by the principle of non-intervention,

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28. The New York Times, November 26, 1951.

to maintain normal diplomatic relations, to avoid systematic and hostile propaganda directed against either country or its government, and to accept the Peace Committee's offer of good offices in connection with consideration of the controversies which gave rise to the declaration.[29] This agreement resulted in a four-year period of relative calm in Cuban-Dominican relations.

Two years were to elapse before the Peace Committee was called upon in another controversy. In this case, the Foreign Minister of Colombia, Evaristo Sourdis, personally headed a special delegation requesting the Committee's services in solving Colombia's five-year-old dispute with Peru over the asylum granted by Colombia to the APRA party leader, Victor Raul Haya de la Torre, at its embassy in Lima, Peru. The Committee sent a copy of the Colombian note to the government of Peru and offered its good offices. Peru, however, declined the Committee's offer, invoking its reservation to Resolution XIV of 1940 in which it maintained that both parties must consent before the Peace Committee could handle a dispute.[30] The Committee, under the authority of its Statutes, proceeded to study the case without Peru's participation. On January 21, 1954, the Committee adopted a set of conclusions in which it expressed the opinion that the circumstances were favorable for the parties to reach a settlement through bilateral negotiations.[31]

The Committee's third case under the 1950 Statutes was perhaps the most confusing of any of the disputes handled. This was the 1954 controversy between Guatemala, Honduras,

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29. OAS, Tenth Inter-American Conference, Second Report, pp. 37-38.
30. Ibid., pp. 11-12.
31. Ibid., pp. 12, 41-42.

and Nicaragua. The case came to the Peace Committee's attention on the afternoon of June 19, 1954, when the Guatemalan Charge d'Affaires in Washington, Dr. Alfredo Chocano, delivered a note to the Chairman of the Committee, Ambassador Quintanilla of Mexico, citing various acts in May and June which violated both the non-intervention principle and Guatemala's sovereignty. The note requested an emergency meeting of the Peace Committee to take appropriate action.[32] The Committee met less than three hours later and transmitted copies of the Guatemalan note to the Honduran and Nicaraguan ambassadors in Washington. At midnight that night, the Guatemalan Foreign Minister, Dr. Guillermo Toriello, made a personal telephone call to Chairman Quintanilla to stress the gravity of the situation and request that the Committee depart for Guatemala the next day, June 20th. The following afternoon, however, the Charge d'Affaires again called Chairman Quintanilla to request that the Committee's trip be suspended because of the submission of the case to the United Nations Security Council the previous day. The Guatemalan request to the Peace Committee was withdrawn the next day, June 21, 1954, thus leaving the Committee with no case before it. But on June 22nd and 23rd, the Honduran and Nicaraguan ambassadors, respectively, requested that the Committee be convened for the purpose of clarifying the Guatemalan charges made against them. Ambassador Guillermo Sevilla Sacasa of Nicaragua proposed that a subcommittee be designated to visit Guatemala,

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32. OAS, Fifth Meeting of Consultation of Ministers of Foreign Affairs, Report of the Inter-American Peace Committee to the Fifth Meeting of Consultation of Ministers of Foreign Affairs, p. 57; the Peace Committee report on the Guatemala case may also be found in Annals of the Organization of American States, Vol. VI. (1954) pp. 239-245.

Honduras, and Nicaragua.[33] The Guatemalan government was informed of this proposal and asked whether such a visit would be acceptable. Although Foreign Minister Toriello cabled on June 23rd--in reference to the Honduran request to the Committee--that Guatemala would not object to a Peace Committee investigation after the U.N. Security Council's decision of June 20th (calling for termination of actions likely to cause bloodshed) was carried out, a note delivered on June 25th in reply to the Peace Committee's inquiry stated that "the Government of Guatemala does not accept, and is opposed to, the Inter-American Peace Committee's intervening in a matter like the case of the foreign interventionist aggression from which Guatemala suffers and which it has denounced . . . ."[34] Imputations that the Peace Committee was being used to cover moves of the "aggressors" to neutralize Guatemala's case before the Security Council brought a detailed reply from the Committee on June 26th in an attempt to assure the Guatemalan government of the propriety of the Committee's actions. Further, Chairman Quintanilla telephoned Foreign Minister Toriello that afternoon in an effort to convince him of the Committee's good intentions and of the usefulness of such a trip. The Prime Minister said that his government was reconsidering the matter. That night, Charge d'Affaires Chocano sent a note to the Committee stating that in view of the postponement of the Guatemalan case by the Security Council pending a report by the Inter-American Peace Committee, the Guatemalan government would accept a visit by the Peace Committee and would provide it with facilities, assistance, and

33. OAS, Fifth Meeting of Consultation, Report of Peace Committee p. 60.
34. Ibid., pp. 61-62.

information. That the visit was still not welcome and was being accepted under duress may be deduced by the Guatemalan note's reference to the Peace Committee's investigation being "by its own decision and on petition of the Governments of Honduras and Nicaragua . . . ."[35]

The following day, Sunday, June 27th, Chairman Quintanilla laid out an itinerary for the Committee's trip and sent notes to the Guatemalan Charge d'Affaires and the Honduran and Nicaraguan Ambassadors. The Committee, set up as a Subcommittee of Information, planned to spend three days in each country, beginning in Guatemala. It would leave Monday evening, June 28th.[36] At this point, the Peace Committee's on-again, off-again case intered a new phase of uncertainty. The government of Guatemalan President Jacobo Arbenz fell the night of June 27th. Therefore, the following morning, Chairman Quintanilla asked the Guatemalan Gharge d'Affaires for confirmation of the invitation extended to the Committee. The invitation was confirmed that same day, but the Committee delayed its departure until the 29th, when, a further change having taken place in the Guatemalan government, the Committee again requested and received confirmation of the original invitation. The Subcommittee of Information, composed of Ambassadors Luis Quintanilla (Mexico), Gonzalo Guell (Cuba), Jose Carlos Vittone (Argentina), Fernando Lobo (Brazil), Paul C. Daniels (United States), and supporting staffs, left Washington the afternoon of June 29th. When the Subcommittee arrived in Mexico City that evening, it learned that the Guatemalan authorities had again changed their minds. The following morn-

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35. Ibid., pp. 63-64.
36. Ibid., pp. 64-65.

ing, Chairman Quintanilla received a message from Junta President Colonel Elfego Monzon and Lieutenant Colonels Jose Luis Cruz Salazar and Mauricio Dubois informing him that the United States and El Salvador were mediating between the Government forces and the invading troops of Colonel Castillo Armas. The message further requested that the Peace Committee refrain from intervening in the conflict.[37] Before cancelling its trip, the Subcommittee decided to send a telegram to the Junta in an attempt to clarify its mission and obtain Guatemalan permission to proceed. The Junta's reply on July 1st still showed misunderstanding of the purpose of the Subcommittee's trip, though it did indicate that a visit in the next few days would be welcome so that the Subcommittee could "learn at first hand that the problem of Communism does not exist . . . ."[38] A second clarifying telegram was sent to the Junta by Chairman Quintanilla that same day, but by this time it became clear that the purpose of the trip could no longer by fulfilled. Telephone consultations with the Guatemalan Junta and the governments of Honduras and Nicaragua resulted in joint approval of a bulletin, issued the night of July 2nd, which announced that the governments involved thanked the Peace Committee for its services and informed it that the controversy no longer existed.[39] The Subcommittee was thus able to terminate the mission and return to Washington.

The final case handled by the Peace Committee under its 1950 Statutes resulted from a recurrence of the ill will between Cuba and the Dominican Republic which had caused the first case under the 1950 Statutes. On February 27, 1956, the Acting Rep-

37. Ibid., pp. 65-67.
38. Ibid., pp. 67-68.
39. Ibid., pp. 68-70.

resentative of Cuba on the OAS Council, Dr. Jose T. Baron, requested convocation of the Peace Committee and charged that activities of the Dominican government indicated preparation for aggression and interference in Cuban internal affairs. The Committee, now under the chairmanship of Ambassador John C. Dreier of the United States, met the following day. Following its normal procedure, the Committee's first action was to inform the Dominican Republic of the charges made against it. The Committee again met on March 8, 1956, to consider a note addressed to it on March 7th by Ambassador Joaquin E. Salazar, the Dominican Representative on the OAS Council. Ambassador Salazar stated that no conflict existed between the Dominican Republic and Cuba and that Cuba had not exhausted the possibilities of direct diplomatic contact with the Dominican Republic to clarify matters. After discussions of the problem with both parties during the ensuing month, the Committee was able, on April 20, 1956, to obtain approval of a statement in which the parties agreed to resort to regular diplomatic channels to achieve a settlement of the problem.[40]

Prior to the adoption of the 1956 Statutes of the Inter-American Peace Committee by the Council of the OAS on May 9, 1956, the Peace Committee had handled ten cases in a period of eight years. In the ten-year period since the 1956 Statutes were adopted, the Committee has handled only two cases under its Statutes. The first of these cases occurred in 1961. It was an indirect outgrowth of the May-June, 1957, conflict be-

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40. Ibid., pp. 73-74; OAS, Inter-American Peace Committee, Report of the Inter-American Peace Committee to the Second Special Inter-American Conference on the Activities of the Committee Since the Tenth Inter-American Conference, pp. 12-13.

tween Honduras and Nicaragua over disputed territory claimed by Honduras on the basis of the 1906 arbitral award of the King of Spain. The Rio Treaty had been invoked by Honduras in 1957, and the OAS Council had handled the situation acting as Provisional Organ of Consultation. As a result of the work of an investigating committee and a later ad hoc committee, the parties agreed to accept the compulsory jurisdiction of the International Court of Justice to achieve settlement of the boundary controversy. The International Court decided the case in November, 1960, holding in favor of Honduras and requiring Nicaragua to accept the 1906 arbitral award.[41]

The governments of Honduras and Nicaragua conducted negotiations in December, 1960, and January, 1961, in order to agree upon steps to take in executing the judgment. These negotiations were halted, however, when, on February 8, 1961, Honduras demanded the immediate withdrawal of the Nicaraguan authorities from the territory awarded to Honduras. In view of the problems of border demarcation, transfer of inhabitants, withdrawal of authorities and other questions still unresolved, the Nicaraguan government felt that further direct negotiations would be fruitless and appealed to the Inter-American Peace Committee for assistance in reaching a solution. Nicaraguan Ambassador Guillermo Sevilla Sacasa presented the request to the Peace Committee on February 16, 1961.[42] In accordance with its Statutes, the Committee informed the Honduran government of the request and asked for its acceptance of Committee action in the matter.

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41. Thomas and Thomas, Organization, pp. 315-316.
42. OAS, Inter-American Peace Committee, Report of the Inter-American Peace Committee to the Eighth Meeting of Consultation of Ministers of Foreign Affairs 1962, OEA/Ser. L/III CIP/1/62 (Washington: Pan American Union, 1962), p. 3; Part I, Appendix 2, pp. 2-4.

The Honduran representative, Ambassador Celeo Davila, appeared before the Committee and submitted a memorandum on February 24, 1961, stating that Nicaragua's delay in withdrawing its authoritites from the "illegally occupied territory" constituted a "typical case of aggression" but that, despite this, Honduras was willing to accept the Peace Committee's intercession on the condition that Nicaragua immediately withdraw all of its authorities from Honduran territory.[43] The latter condition was unacceptable to Nicaragua, and the Peace Committee's first task was to overcome this obstacle. After conversations with the Committee and consultation with his government, Ambassador Davila informed the Committee on March 1, 1961, that Honduras would withdraw the condition to its acceptance of Peace Committee action.[44]

Upon achieving the agreement of both parties to its action in the case, the Committee prepared and submitted to the parties a draft Basis of Arrangement. After discussion and amendment, the Basis of Arrangement was accepted by both Honduras and Nicaragua on March 7, 1961. It provided for withdrawal of Nicaraguan authorities, the establishment of a Honduras-Nicaragua Mixed Commission, and the powers of the Commission. The Mixed Commission was to be composed of the Chairman of the Inter-American Peace Committee, a representative of Honduras, and a representative of Nicaragua. It was to assist the governments in population transfer and nationality problems, fix certain parts of the boundary, and supervise the marking of the boundary. The Chairman of the Peace Committee was to be the Chair-

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43. Ibid., pp. 3-4; Part I, Appendix 3, pp. 5-7.
44. Ibid., p. 4.

man of the Mixed Commission and was empowered to make final decisions in the event of disagreement between the Honduran and Nicaraguan representatives.[45]

The Peace Committee, having been invited by the Presidents of Honduras and Nicaragua to visit their countries, left Washington on March 16, 1961. The representatives of member states of the Committee were: Ambassador Vincente Sanchez Gavito of Mexico, Chairman; Ambassador Jose Antonio Mayobre of Venezuela; Minister Santiago Salazar Santos of Colombia; Jose Carlos Ruiz of El Salvador; and Pablo Oscar Guffanti of Uruguay. The Committee spent two days each at Tegucigalpa and Managua, conferring on implementation of the Basis of Arrangement with Presidents Villeda Morales and Somoza Debayle, respectively. The Committee proceded to Waspam, on the Nicaraguan side of the Honduran border, on March 21st. That evening, the Honduras-Nicaragua Mixed Commission was installed, consisting of Ambassador Sanchez Gavito of the Peace Committee as Chairman, Dr. Roberto Perdomo Paredes as Honduran Representative, and Dr. Ignacio Roman Pachecho as Nicaraguan Representative.[46]

The Peace Committee, except for Ambassador Sanchez Gavito, returned to Managua en route to Washington on March 22, 1961. The Mixed Commission remained to witness the withdrawal of Nicaraguan authorities, the transfer of Nicaraguan nationals desiring to live in Nicaraguan territory, and to fix and mark the border. By April 12, 1961, the last Nicaraguan authorities had been withdrawn, and by the middle of May the population transfers had been accomplished. The process of fixing and

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45. Ibid., pp. 5-7.
46. Ibid., pp. 8-9.

marking the boundary took considerably longer but was satisfactorily completed in December, 1962.[47]

The second case handled by the Peace Committee under its 1956 Statutes was that of the United States and Panama in January of 1964. The immediate cause of the controversy was a riot on January 9, 1964, over an attempt by Panamanian students to raise a Panamanian flag at an American high school in the Panama Canal Zone. But more fundamental causes included the long-standing controversy over Canal Zone sovereignty, Panamanian rights in the Canal Zone, annual payments to Panama, and employment of Panamanians in Canal operations.

As a result of the January 9th riots, President Roberto F. Chiari of Panama suspended diplomatic relations with the United States.[48] The Foreign Minister, Dr. Galileo Solis, sent a cablegram to the OAS Council President, Ambassador Juan Bautista de Lavalle of Peru, and an emergency meeting of the Council was scheduled for four p.m. on January 10th. The United States, however, strongly desired to avoid a debate of United States-Panama relations in the OAS Council, and worked to avoid an invocation of the Rio Treaty. Finally, after six hours of "hard diplomatic negotiation" which included a telephone call from President Johnson to President Chiari, the latter agreed to take the situation to the Inter-American Peace Committee.[49] A meeting of the Peace Committee was held with Ambassador Augusto Guillermo Arango of Panama and Ward P. Allen, Acting U.S. Representative on the OAS Council. By 4:40 p.m., agree-

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47. OAS, Inter-American Peace Committee, Report to Second Special Inter-American Conference, pp. 30-35.
48. The New York Times, January 10, 1964.
49. The New York Times, news article by Henry Raymont, January 11, 1964.

ment had been reached on use of the good offices of the Peace Committee by both parties. Ambassador Enrique Tejara Paris of Venezuela, Chairman of the Peace Committee, then went before the OAS Council to report on the agreement. He requested the election of another member to the Peace Committee to act as substitute for the United States in accordance with Article 11 of the Statutes, since the United States, a member of the Committee, was an interested party in the dispute. The Chilean Ambassador was elected to act as a temporary substitute for the United States.[50]

The Peace Committee was ready to leave for Panama almost immediately, but departure was delayed because of Chilean Ambassador Manuel Trucco's concern over possible action by the U.N. Security Council in this matter. The Peace Committee, according to Article 2 of its Statutes, is empowered to act only when no other procedures for pacific settlement are in progress.[51] Clarification was requested and assurance received from President Chiari that Panama would not request U.N. action pending the outcome of Peace Committee conciliation efforts.[52] Upon receiving this assurance the Peace Committee departed for Panama. Accompanying Chairman Tejara Paris of Venezuela were the ambassadors of Colombia, the Dominican Republic, Argentina, and Chile.[53]

The following day, January 11, 1964, the Committee conferred with American and Panamanian officials. As the primary

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50. Ibid.
51. Ibid.; OAS, Inter-American Peace Committee, Statutes, Approved by the Council of the Organization of American States on May 9, 1956, p. 1.
52. The New York Times, news article by Henry Raymont, January 11, 1964.
53. OAS, Inter-American Peace Committee, Report to Second Special Inter-American Conference, p. 49.

objective was to assist the parties in re-establishing and maintaining public order, a Mixed Committee on Cooperation was established to achieve this objective. The Mixed Committee was composed of one member of the Peace Committee, Ambassador Trucco, as Chairman, and one civilian and one military representative from each party.[54] Through the Committee's mediation, solutions were quickly found to the problems of the simultaneous raising of U.S. and Panamanian flags and the free transit of vehicles and individuals. Persuading the parties to resume diplomatic relations presented a more difficult problem, but four days later the parties agreed to resume diplomatic relations and to begin formal discussions on all existing difficulties 30 days later. Following this agreement early in the morning of January 15th, the Peace Committee returned to Washington, except for Ambassador Trucco who remained in Panama as head of the Mixed Committee on Cooperation.[55]

Unfortunately, the solution did not prove to be either simple or swift. The English language version of the press release, as issued by the Peace Committee, referred to "formal discussions" 30 days after resumption of relations.[56] The Panamanian interpretation was that the United States had agreed to formal negotiations. "Negotiations" was, in fact, the term used in the New York Times version of the press release on January 15th.[57] President Chiari of Panama announced later that day that Panama would refuse to resume diplomatic relations

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54. Ibid., p. 50.
55. Ibid., p. 51.
56. Ibid.,
57. The New York Times, news article by Henry Raymont, January 15, 1964.

unless the United States agreed to negotiate substantive changes in the Canal treaty.[58]

The United States refused to commit itself to negotiations on the Canal treaty, however, and Panama was adamant in insisting on such negotiations. Panama formally broke its diplomatic relations with the United States on January 17, 1964.[59] Continuance of Peace Committee mediation was hotly debated in Panama after the formal break, but President Chiari agreed on January 20th to let the Peace Committee again attempt mediation. If Panama did not succeed in obtaining the desired assurances of negotiation through the Peace Committee's efforts, it would take the case to the OAS Council under the Rio Treaty; if success was not achieved in the OAS, Panama was resolved to go to the U.N. Security Council.[60]

Conversations were resumed at the Peace Committee's headquarters in Washington on January 20th with Ambassador Ellsworth Bunker representing the United States and Ambassador Miguel J. Moreno representing Panama. By January 28th, Panama decided to end the negotiations being conducted through the Peace Committee and take the issue to the CAS Council. Political tensions were reported to be rising dangerously in Panama, forcing President Chiari to make this move.[61] The Peace Committee was formally advised of Panama's intentions by Ambassador Moreno at an emergency session on the morning of January 29th, and a note was delivered to Secretary General Jose Mora later that day request-

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58. The New York Times, January 16, 1964.
59. The New York Times, January 18, 1964.
60. The New York Times, news article by Henry Raymont, January 21, 1964.
61. The New York Times, news article by Tad Szulc, January 29, 1964.

ing an urgent meeting of the OAS Council.[62]

On January 30, 1964, the Peace Committee issued a press release describing its activities in the case and stating that it considered its action terminated by virtue of Panama's request for a meeting of the Organ of Consultation under the Treaty of Reciprocal Assistance.[63] The investigative and conciliatory action of the OAS Council acting as Provisional Organ of Consultation finally resulted, on April 3, 1964, in agreement to resume diplomatic relations and adopt procedures for the "prompt elimination of the causes of conflict . . . ."[64]

Although the Peace Committee has considered only two disputes under its 1956 Statutes, it considered six cases under the authority granted by Resolution IV of the Fifth Meeting of Consultation of Ministers of Foreign Affairs in 1959 (and since rescinded by the Second Special Inter-American Conference in 1965). This 1959 resolution, briefly described in Chapter 1, directed the Peace Committee to conduct studies on the general causes of political tensions in the Caribbean area, and to act either on a specific country's request or on its own initiative in performing these duties.[65] The six cases considered all involved two dictatorships, Cuba and the Dominican Republic, either directly or indirectly.

The first case under Resolution IV resulted from an unsuccessful invasion of Haiti on August 13, 1959, by forces which had departed from a Cuban port. The government of Haiti

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62. OAS, Inter-American Peace Committee, Report to Second Special Inter-American Conference, p. 51.
63. Ibid., pp. 52-53.
64. The New York Times, news article by Tad Szulc, April 4, 1964.
65. Supra, p. 18.

requested, in a note to the Chairman of the Peace Committee dated August 31, 1959, that the Committee investigate the incident. The Committee took up the case as part of its study of the general international tensions in the area. A subcommittee composed of the representatives of El Salvador, the United States, and Uruguay visited Haiti in October, 1959. While the Haitian government was concerned over the failure of Cuba to prevent the departure of the invaders and the possibility of another invasion, it did not desire to present a formal accusation against the Cuban government. The Peace Committee drew no conclusions from its investigation in this case except to point out that no further invasion had occurred, probably due to the failure of the 1959 invasion and to the interest and action taken by the OAS on the Haitian appeal.[66]

The second request for Committee action under Resolution IV was made by Venezuela on November 25, 1959. It charged that leaflets inciting the Venezuelan army to rebellion had been dropped over Curacao on the night of November 19th by a United States-registered aircraft flown by two Cubans. The Committee's investigation determined that the loading of the leaflets had taken place at Ciudad Trujillo in the Dominican Republic and that neither the loading nor the flight arrangements--the purpose of which was to drop the leaflets over a Venezuelan city--could have taken place without the involvement of Dominican authorities.[67]

In the next case, Committee action was requested on February 16, 1960, by Ecuador. Ecuador's assumption of Venezuelan

66. OAS, Inter-American Peace Committee, Report to Second Special Inter-American Conference, pp. 15-17.
67. Ibid., pp. 17-18.

interests after that country's break in diplomatic relations with the Dominican Republic, and Ecuadorian responsibility for 13 Dominican citizens who had been granted asylum in the Venezuelan Embassy, resulted in Dominican harassment of the Ecuadorian Embassy in Santo Domingo. The Dominican government, on March 8th, offered to accept the Committee's services on the basis of its Statutes but not on the basis of Resolution IV, and stipulated that it would not discuss the question of the asylees.

When the Committee replied that separation of the problem of the Ecuadorian Embassy's situation from the status of the Dominican asylees was not feasible, and then formally requested the Dominican government's consent to Peace Committee action in the matter, the Dominican Republic, in a note dated March 25th, proposed direct negotiations with Ecuador. This course of action was rejected by Ecuador and, after further attempts at agreement, the Dominican Republic, on March 31, 1960, formally declined to accept the competence of the Committee in the situation.[68] Despite lack of Dominican cooperation, the Committee studied the situation under the powers delegated to it by Resolution IV, and reported to the OAS Council the hope that both governments would do their utmost to avoid heightening tensions and to reach a solution.[69]

On February 17, 1960, the day following Ecuador's request for Peace Committee action, Venezuela addressed a note to the Committee requesting an investigation of human rights violations by the Dominican government. After deciding that it was competent

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68. Ibid., pp. 18-22.
69. Ibid., p. 23.

under Resolution IV to consider the case, the Committee requested the consent of the Dominican Republic to visit its territory but was refused. The Committee, however, continued its inquiry through the use of information obtained from other American governments, testimony of exiles and recent visitors to the Dominican Republic, and what it called "extensive and reliable press material."[70] In its report to the OAS Council on the case, the Committee concluded that "international tensions in the Caribbean region have been aggravated by flagrant and widespread violations of human rights which have been committed and continue to be committed in the Dominican Republic," and mentioned several violations including the denial of free speech and assembly, arbitrary arrests, and cruel and inhuman treatment of political prisoners.[71]

Cuba's involvement in Caribbean tensions is again apparent in the Peace Committee's fifth case under Resolution IV. On June 1, 1961, in a telegram to OAS Secretary General Mora, Guatemala's Foreign Minister, Jesus Unda Murillo, stated that the Guatemalan government had learned of the existence on Mexican territory adjacent to Guatemala's border, of Communist troops being trained for an invasion of Guatemala. On June 2nd, the Mexican representative on the OAS Council, Ambassador Vincente Sanchez Gavito, requested Peace Committee investigation of the Guatemalan charge, stating that the "imputations . . . are totally unfounded."[72] He further requested that the Committee visit and conduct an investigation in Mexican territory to disprove the Guatemalan claims. The Peace Committee,

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70. Ibid., pp. 24-25.
71. Ibid., p. 25.
72. OAS, Inter-American Peace Committee, Report to Eighth Meeting of Consultation, p. 19.

after meeting and confirming its competence, requested additional information from Guatemalan Ambassador Carlos Urrutia Aparicio. The Ambassador stated, however, that Guatemala would not report any specific circumstatnces since it had already, in a Council meeting on June 2nd, stated that the telegram to the Secretary General was for informational purposes only and contained no accusations against Mexico.[73] In view of the positions of both the Mexican and Guatemalan governments in the matter, the Peace Committee concluded on June 5, 1961, that the Mexican government was "fulfilling its international obligations" and that there was no necessity for the Committee to visit Mexico and make an investigation.[74]

The sixth and final case considered by the Peace Committee under Resolution IV was a study and investigation of "facts" about illegal acts, attributed to the government of Cuba, condemned before the OAS Council on November 16, 1961, by Ambassador Juan Bautista de Lavalle of Peru.[75] On November 27, 1961, the Ambassador requested the Peace Committee to carry out a "study and investigation" of these "facts" which consisted of such internal acts as executions, imprisonments, and maltreatment, and external acts including use of "diplomatic officers, official missions, and secret agents, for the purpose of instigating subversion and revolution . . . ."[76] (The OAS Council, on November 22nd, agreed that the Inter-

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73. Ibid., pp. 20-21, Part II, Appendix 2, pp. 3-4; OAS, Inter-American Peace Committee, Report to Second Special Inter-American Conference, p. 37.
74. OAS, Inter-American Peace Committee, Report to Eighth Meeting of Consultation, p. 21, Part II, Appendix 4, pp. 5-6.
75. Text of speech in Ibid., Part III, Appendix 1-B, pp. 4-11.
76. Ibid., p. 22.

American Peace Committee was an appropriate organ to deal with the acts condemned by Peru.)[77]

When the Peace Committee invited Ambassador Carlos M. Lechuga of Cuba to appear before the Committee on November 29th to present his views, he refused to appear and, in a note to the Committee, rejected the competence of the representatives of El Salvador, Venezuela, Colombia, and the United States, citing "the frankly hostile attitude of those governments . . . ."[78] The following day the Committee sent requests to the governments of all OAS member states, requesting what information they could provide on the Peruvian charges.[79]

On December 7th, the Committee inquired of the Cuban Ambassador the acceptability to Cuba of a visit by the Committee for the purpose of carrying out its investigation. The wording of the negative reply of Ambassador Lechuga to this request was considered so offensive by the Committee that it voted unanimously to declare the note unacceptable.[80] The investigation was subsequently carried out by the Committee with the information which was available to it, including documents published by the Cuban government, radio propaganda programs, and "plentiful documentation from numerous trustworthy sources . . . ."[81]

The study covered three basic areas: Cuban ties with the Sino-Soviet bloc, subversive activities conducted by the Cuban government, and human rights violations by the Cuban govern-

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77. Ibid., p. 23.
78. Ibid., Part III, Appendix 3, p. 14.
79. Text of request in Ibid., Part III, Appendix 2, pp. 12-13.
80. Ibid., p. 26.
81. Ibid.

ment.[82] Upon completion of the study, the Peace Committee concluded that: the Cuban political organization and its identification with the Marxist-Leninist ideology is antagonistic to the OAS requirement of political organization based on representative democracy; Cuban human rights violations are a principal cause of international tension in the hemisphere and openly contradict various inter-American instruments; Cuban connections with the Sino-Soviet bloc are incompatible with regional principles and standards--especially collective security; and the subversive activities of the Sino-Soviet bloc and Cuba constitute acts classified as "aggression of a non-military character" and violate fundamental inter-American principles.[83]

As recounted above, the Inter-American Peace Committee has, in the period 1948-1965, considered eighteen cases--twelve under its 1948 Bases of Action and two Statutes, and six under the authority of Resolution IV of the Fifth Meeting of Consultation of Ministers of Foreign Affairs. On comparison of these cases, the various factors affecting Peace Committee operations, its methods and conduct of the cases, and the relative degrees of success which it has achieved will become more evident.

Very few changes resulted from the broadening of the Committee's powers under the 1950 Statutes. The added power to act at the request of any American state, whether or not it was an interested party, was not, in fact, exercised, because in each of the four cases acted upon under the 1950 Statutes,

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82. Ibid., pp. 27-44.
83. Ibid., pp. 45-48.

one of the directly interested parties made the initial request to the Committee. The only cases in which an interested party did not make the initial appeal to the Committee occured in 1949 under the 1948 Bases of Action, and neither case involved a dispute between specific states. One involved the situation of general unrest in the Caribbean, and the other expressed the Committee's concern over the war powers granted to the Dominican President. The latter action was taken on the Committee's own initiative as permitted by the 1948 Bases of action.[84]

Compared to the minimal effect on Committee operations resulting from the adoption of the 1950 Statutes, the adoption of the 1956 Statutes proved to be a major turning point for the Peace Committee. The requirement that only a state directly involved in a dispute may request Committee action, and that action may be taken only with the consent of both parties, has led to a virtual abandonment of use of the Peace Committee as a conciliation agency. Of the two cases which utilized the Committee's services under the Statutes since 1956, the first--the Honduras-Nicaragua case of 1961--was primarily a matter of facilitating agreement and supervising the mechanical details of effecting the International Court's judgment. In the second case, that of Panama and the United States in the Panama Canal Zone riots of 1964, agreement to utilize the Peace Committee's services was a compromise on the part of Panama, which initially intended to request a meeting of the Organ of Consultation to invoke the Rio Treaty. And the Committee's efforts eventually

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84. Supra, pp. 30-32, 34.

ended in failure, because neither party would modify its position with regard to renegotiating the Canal treaty. The Peace Committee observed quite validly in its 1959 report to the Fifth Meeting of Consultation of Ministers of Foreign Affairs that the reason no case had yet been submitted to it under the 1956 Statutes may have been due to the restrictive changes in those Statutes. Consider the sharp reduction of cases under the Statutes--ten prior to 1956 and only two afterward. The The absence of the type of controversy handled prior to 1956 among the cases handled after 1956 certainly does not reflect the disappearance of that type of dispute. The fact that such disputes still occurred may be seen in the cases handled under the more liberal powers granted by Resolution IV in 1959.

An examination of the cases handled prior to 1956 will show the extent to which lack of a requirement of prior consent by both parties aided in the Committee's ability to take action. In none of the eight cases involving disputes was the consent of both parties obtained prior to resort to the Committee. It was not required, of course, but nevertheless this shows that use of the Committee's services was not the chosen path to settlement for at least one disputant in each case. In five of the cases, consent was given by the other party subsequent to initiation of Peace Committee action. The five disputes include those between the Dominican Republic and Cuba (1948), Haiti and the Dominican Republic (1949), Cuba and the Dominican Republic (1951), Guatemala, Honduras, and Nicaragua (1954), and the Dominican Republic and Cuba (1956). Of the three remaining cases, no actual complaint was presented to the Committee in one (Cuba's request for an investigation to disprove Dominican

charges in 1949), the question of consent was rendered moot by termination of the problem in one (Cuba and Peru, 1949), and there was outright refusal to accept Committee action in one case (Colombia and Peru, 1953). It is of interest to note that Peru, which attached a reservation to Resolution XIV in 1940 on the ground that the consent of both parties should be required, did not accept the Peace Committee's services in either of the two cases in which it was the respondent party.

Any comparison of the cases handled by the Peace Committee under Resolution IV of 1959 with those handled under the Statutes must take into consideration the general atmosphere of political unrest in the Caribbean; the issues of non-intervention, human rights, and democracy; and the relationship between political stability and economic development, all of which affected the decision to adopt Resolution IV, making the Committee a tool for the exercise of political judgments rather than an aid to conciliation of disputes. An actual dispute did not in fact exist in most of the cases considered under Resolution IV. The cases of Ecuador and the Dominican Republic in 1960, and of Mexico and Guatemala in 1961, are possible exceptions, but in the former case, no agreement for Peace Committee action could be reached with the Dominican Republic, and in the latter case there was no agreement that a dispute even existed. The remaining four cases, however, are of the nature of political condemnations of illegal acts. In none of them is there any room for actual negotiation or compromise.

That the Peace Committee chafed under this imposition of a political mandate upon it may be seen most clearly in the Committee's report on Resolution IV to the Second Special Inter-

American Conference.[85] As a result of the Committee's forceful presentation of its views on the undesirability of retaining Resolution IV's duties and powers, the Conference, as noted in Chapter 1, terminated these duties and powers and forbade their inclusion in any revision of the Peace Committee's Statutes.[86]

Conclusions on the success or failure of the Peace Committee depend largely on the criterion used in measurement. From the viewpoint of final solutions achieved which actually eliminated the cause of the dispute, perhaps only one case--that of Honduras and Nicaragua in 1961--can be said to have been successfully settled. Certainly the numerous disputes of the late 1940's and early 1950's involving, particularly, the Dominican Republic, Haiti, and Cuba, were never definitively settled, and the tension in the Caribbean continues even today. However, the very fact that the disputes were brought before the Peace Committee by at least one of the parties indicate the development of a degree of community spirit and reliance on community organs. And by bringing disputes into the open before a group of experienced diplomats who can quietly but effectively assist the parties in searching for a solution, the Peace Committee provides a means for removing the controversy from the more politically-charged arenas and permitting the passions of irate politicians and populations to cool.

On a more pessimistic note, the United States-Panama crisis following the Canal Zone riots in 1964 is a prime example

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85. OAS, Second Special Inter-American Conference, Special Report of the Inter-American Peace Committee called for in Paragraph 3 of Resolution IV of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Submitted to the Second Special Inter-American Conference, pp. 1-7.
86. Supra, pp. 19-20.

of Peace Committee failure. Passions were stirred rather than cooled, and, in the end, the more politically-charged and dangerous procedure of the Rio Treaty was invoked. This case is an example of the type over which Edgar S. Furniss, Jr. expressed concern in discussing the Caribbean disputes of 1948-1950. There was, he noted, no certainty that action could be taken quickly and effectively in cases involving small powers outside of the Caribbean area, small powers and large powers anywhere in the hemisphere, or the large powers of South America. And particularly questionable, according to Furniss, would be a situation directly involving the United States.[87]

The Peace Committee's success, or lack of it, in handling general situations as opposed to specific disputes, does not generate optimism. The only case of a general situation being considered prior to 1959 was that of the general unrest in the Caribbean in 1949. And in that case, it may be recalled, the Committee was able to do no more than to reaffirm basic principles including non-intervention and the exercise of representative democracy.[88] The record of Peace Committee activities in considering general situations under Resolution IV would appear to be no more successful. In the two cases of a general nature considered under Resolution IV--one submitted by Venezuela on human rights violations in the Dominican Republic in 1960 and the other submitted by Peru on illegal and subversive acts by Cuba in 1961--the Committee was able to collect testimony and evidence and to produce an indictment of the countries accused of the alleged acts. But in neither case was the Committee able

87. Edgar S. Furniss, Jr., "The Inter-American System and Recent Caribbean Disputes," International Organization, Vol. IV (1950), p. 593.
88. OAS, Tenth Inter-American Conference, Second Report, pp. 30-33.

to obtain the cooperation of the country accused or to visit the countries and verify the accusations. Further, in considering its general mandate under Resolution IV to study the questions of intervention, subversion, human rights violations, etc., the Committee concluded in its Special Report that these matters were not clearly defined and were beyond its competence. The Committee stated its opinion that such investigative duties had no basis in its Statutes and conflicted with its conciliation mission.[89]

In conclusion, then, it may be said that the Peace Committee, while successful in varying degrees in the handling of specific disputes, has been somewhat less successful in resolving general situations. The handling of such situations of unrest, moreover, appears to conflict with the fundamental objectives for which the Peace Committee was established by Resolution XIV in 1940. General situations, particularly where heavily charged with political and ideological interest, would best be reserved for investigating committees directly responsible to the OAS Council.

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89. OAS, Second Special Inter-American Conference, Special Report, pp. 2, 5-6.

CHAPTER 3: THE PEACE COMMITTEE AND NATIONAL FOREIGN POLICY

Few official policy statements have been made concerning the Inter-American Peace Committee, its use and its place in the inter-American system. Therefore, evidence of national policy will have to be found by examining the uses made of the Peace Committee, Rio Treaty, and Pact of Bogota; comments or reservations made concerning Peace Committee structure or powers; proposals for revision of the Peace Committee's Statutes or for the creation of a new organ; and factors affecting national policy such as the existence of border disputes.

In an examination of the uses made of the Inter-American Peace Committee, it quickly becomes evident that, with the exception of the Colombia-Peru case of 1954 dealing with the asylum of Haya de la Torre, all of the cases upon which Committee action has been requested have centered upon the Caribbean area and its political tensions. In only two of the eighteen cases--the Ecuador-Dominican Republic case of 1960 and the Peruvian request on the Cuban situation in 1961--were the requests made by non-Caribbean countries. Therefore, it is to the Caribbean countries that we must look for indications of policy through their use or non-use of the Peace Committee.

Of the 13 nations bordering on the Caribbean Sea, only two, Costa Rica and El Salvador, have not requested Peace Committee intercession in at least one case. Cuba has made four requests, and the United States, Nicaragua, Venezuela, and Haiti have made two each. Thus, most of the countries of the area have, at one time or another, indicated their general acceptance of the Peace Committee as an instrument of dispute settlement

by actually requesting its services.

There were a variety of reasons for resort to the Peace Committee. In general, the cases might be said to follow the prescription for Committee competence of the 1948 Bases of Action which stated that the Committee would have jurisdiction "when direct negotiations or usual diplomatic procedures . . . have failed, or . . . actual circumstances make any negotiation impossible . . . ."[1] And the circumstances were more often the latter than the former. More specifically, the first seven cases--through the Cuba-Dominican Republic case of 1951--involved Caribbean countries which had either recently rid themselves of dictatorships or those in which dictators still held power. In the first category were Cuba, Guatemala, Venezuela, and Costa Rica, and in the second, Nicaragua and the Dominican Republic. The antagonism and mistrust on both sides were heightened by the activities of political exiles to whom encouragement and assistance were given. While the most serious cases involving armed attacks (Costa Rica-Nicaragua, 1949, and Haiti-Dominican Republic, 1950) went to the OAS Council and the Organ of Consultation under the Rio Treaty, most of the situations were handled by the Peace Committee. Of the first seven Peace Committee cases, in only one--the first, by the Dominican Republic--was the request made by one of the dictatorships. Of the next six cases, Cuba--one of the "democratically-inclined" governments at that time--requested Committee action in three, and Haiti, the United States, and the Committee itself in one each. After the end of 1949, when the Committee had handled six cases

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1. OAS, Second Special Inter-American Conference, Report of the Inter-American Peace Committee on the Amendment of Its Statutes, Submitted to the Second Special Inter-American Conference, p. 26.

and when Haiti and the Dominican Republic were about to bring the Caribbean situation before the OAS Council under the Rio Treaty, the requests for Peace Committee action slackened. The possibility exists that the reason for this lies in the fact that Peace Committee efforts were successful in settling the disputes it considered and abating the tensions in the area. It is more likely, however, that the reason lies in the elimination of some of the sources of conflict. And the sources eliminated were not the dictatorships against which such enterprises as the Caribbean Legion were mounted, but rather, the "democratically-inclined" countries which had encouraged and supported the Caribbean Legion. The rule of the Democratic Action party in Venezuela was ended by a counter-revolution in November, 1948, and less enthusiastic revolutionaries came to the presidencies of Cuba in 1948 and Costa Rica in late 1949 in the persons of Carlos Prio Socarras and Otilio Ulate Blanco, respectively. Cuba succumbed to Batista again in 1952, and the Arbenz regime in Guatemala lasted only until 1954. Actually, support for the Caribbean Legion was diminishing at the time that it made its only aggressive move--the unsuccessful attempt to invade the Dominican Republic from Guatemala in June, 1949.[2] With the failure of the Legion to achieve success and the removal or change to less aggressive attitudes of some of the governments involved, in addition, of course, to the beneficial effects of Peace Committee action and the exposure of the situation to the light of publicity, the Caribbean situation was calmed.

Policy considerations were rather limited in the request

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2. Franklin D. Parker, The Central American Republics (London: Oxford University Press, 1964), p. 310.

by Colombia for the Peace Committee's services in the Haya de la Torre asylum case, since the case was one of five years' standing, and Colombia referred it to the Peace Committee as a last resort. In the Guatemalan case of 1954, however, policy considerations play an important role. It was apparently through an initial confusion in the policy of the Guatemalan government that the request was made for urgent action by the Committee. By the time the Guatemalan government decided that it would obtain a more sympathetic hearing from the United Nations Security Council and cancelled its request to the Committee, the Committee was becoming actively involved in the situation. The requests by Honduras and Nicaragua for Committee action in order to vindicate themselves in the face of Guatemala's charges continued the Committee's involvement. It was not, of course, until the Security Council's decision to defer to OAS action and Guatemala's subsequent approval of a visit that the Peace Committee was able to begin effective action in the case.

The issue of revolutionary vs. dictatorial regimes was apparent again in the series of six cases handled by the Peace Committee under Resolution IV of 1959. There was a difference, however, between these cases and those of the 1948-1951 period when only the antagonisms between a few small Caribbean countries was involved. In the Resolution IV cases, a new element--that of a Communist dictatorship and its efforts to systematically spread its influence throughout Latin America by means of subversive movements--was added to the relatively more simple efforts of dictators and presidents to unseat each other through support of exile groups. Concern for the situation was expressed within the OAS on a higher level--that of the foreign

ministers--than it had been in the earlier period of Caribbean turmoil. And it was on the foreign ministers' level that the policy decision was made to use the Peace Committee as an instrument for attempting to resolve the intricate problems involved. That it was unsuccessful in doing so has been discussed in Chapter 2.

The only two cases upon which the Peace Committee has acted under the 1956 Statutes serve to indicate the questionable wisdom of requiring both parties to agree to the Committee's action in advance. The first case involved Nicaragua and Honduras, and is the Committee's only real success to date in achieving a final and lasting settlement. As indicated in Chapter 2, the dispute was over the procedure to be used in effecting a judgment rather than over the basic issues themselves. Agreement to use the Peace Committee would undoubtedly have been achieved under the 1950 Statutes. The second case involved the United States and Panama, and the latter was reluctant to utilize the Peace Committee from the beginning and eventually withdrew to take the case to the OAS Council.

In addition to policy approval of the Peace Committee as indicated by its actual use, other evidence of policy may be found in the approving resolutions of the OAS Council and the Inter-American Conferences. Such resolutions include that of the OAS Council concerning the Committee's 1949 investigation of the Caribbean situation,[3] Resolutions CI and CII of the Tenth

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3. OAS, Tenth Inter-American Conference, Second Report of the Inter-American Peace Committee submitted to the Tenth Inter-American Conference, p. 9.

Inter-American Conference,[4] and Resolution XIX of the Second Special Inter-American Conference (Vote of Thanks and Congratulations to the Inter-American Peace Committee).[5]

Contrasting with the expressions of approval of the Peace Committee's activities were several which indicated actual disapproval. In addition to the doubt concerning the Committee's juridical competence to deal with general situations expressed by the Mexican delegation in the 1949 case on the Caribbean situation,[6] Costa Rican Ambassador Mario A. Esquivel expressed a similar position in a letter to the Committee Chairman, Ambassador Luis Quintanilla of Mexico, in August, 1949. Since the Dominican government had categorically stated that it was not formally accusing any government, said Ambassador Esquivel, no controversy existed, and the Peace Committee, "created to suggest Methods for the Peaceful Settlement of Conflicts, cannot feel itself obligated to intervene until such conflicts exist, because the mandate of the so-often cited Resolution [Resolution XIV of 1940] cannot obligate it to any preventive action . . . ."[7]

Disapproval of Peace Committee entry into a case may also be found in the refusals of disputants to accept the Peace Committee's services. Peru refused to accept Peace Committee intercession in the 1953-54 Asylum Case with Colombia; Guatemala refused for a period in its 1954 controversy with Honduras and Nicaragua; Panama refused to continue negotiations through the Peace Committee in January, 1964; and the Dominican Republic

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4. Annals of the Organization of American States, Vol. VI, (Special Number) (1954), pp. 120-121.
5. OAS, Second Special Inter-American Conference, Final Act, p. 30.
6. Supra, p. 32.
7. Enrique V. Corominas, In the Caribbean Political Areas (Cambridge, Mass.: University Press, 1954), p. 97.

and Cuba refused in 1960 and 1961, respectively, to allow Peace Committee investigations on their territories.[8]

The extensive use made of the machinery of the Rio Treaty in settling disputes in the 1948-1965 period also furnishes indications of national policy. The Treaty was invoked 15 times and the Council agreed to convoke a meeting of the Organ of Consultation 11 times. This use of the Rio Treaty was excessive in the opinion of Dr. William Manger, former Assistant Secretary General of the OAS. Dr. Manger maintains that the Rio Treaty is primarily a mutual defense pact directed against aggression from outside the continent. He feels that the use of the Rio Treaty for other than its primary purpose is of dubious benefit to the inter-American community and cites as an example the fact that of the first eight cases in which the Rio Treaty was invoked, only in the last, the Venezuela-Dominican Republic case of 1960, was the aggressor determined and sanctions applied. In the other seven cases, though aggression or threat of aggression was charged, the issue was settled "by a process of negotiation and conciliation that is more appropriate to the Treaty on Pacific Settlement than to the Treaty of Reciprocal Assistance."[9]

What bearing do these uses of the Rio Treaty--a treaty for mutual defense against aggression--have on national policies for the settlement of disputes? If Dr. Manger is right, perhaps greater use should have been made of the Peace Committee, since the slow pace of ratification of the Treaty on Pacific

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8. Supra, pp. 36, 38, 48-49, 50-52, 53-55.
9. William Manger, Pan America in Crisis: the Future of the OAS (Washington: Public Affairs Press, 1961), pp. 50-52.

Settlement (Pact of Bogota) makes the use of that instrument somewhat difficult. But is Dr. Manger really correct in his prescription for the use of the Rio Treaty? Perhaps defense against extra-hemispheric attack was its original basis, but since provisions were written into the treaty to permit its use in inter-American conflicts or threats to the peace, such use must be permissible even though it is a secondary purpose. The beneficial effects of the evolution of the Rio Treaty into an instrument used primarily in solving inter-American disputes, as well as the procedural development of the practice of solving disputes through the OAS Council acting as Provisional Organ of Consultation, cannot be lightly dismissed. Furthermore, in all of the cases in which the Rio Treaty was applied, either an armed attack or some form of threat to the peace did, in fact, exist. And although Dr. Manger may be correct in saying that, while the issues were settled superficially, the Caribbean tensions nevertheless worsened,[10] it is difficult to see how the situation could have been improved by not resorting to the Rio Treaty. It must, therefore, be concluded that the uses made of the Rio Treaty were, with the exception of its invocation by Panama in 1964, legitimate. In the latter case, although a resumption of the Canal Zone riots could possibly have been considered to be a threat to the peace, they had not recurred at the time of Treaty invocation, and Panama had openly admitted that resort to the Rio Treaty--and to the U.N. if necessary--was being used in order to pressure the United States into accepting Panamanian demands for revision of the Canal Zone treaty.[11]

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10. Ibid., p. 50.
11. The New York Times, news article by Henry Raymont, January 21, 1964.

National foreign policies with regard to use of the American Treaty on Pacific Settlement (Pact of Bogota) for the settlement of disputes may be deduced from the uses made of the treaty, the reservations attached at the time of signature, and the slow pace of ratification of the treaty. The Pact of Bogota has been invoked on only two occasions. On the first, Costa Rica requested the OAS Council on April 21, 1954, to convoke a Commission of Investigation and Conciliation as provided by the Pact of Bogota to investigate a situation which had arisen between Costa Rica and Nicaragua. However, as a result of statements made by representatives of the parties indicating that the matter could be settled by direct negotiations, the Council took no action on the request.[12] Negotiations were not sufficient, however, and the second occasion arose when the OAS Council, after investigating the Costa Rica-Nicaragua dispute in 1955 acting as Provisional Organ of Consultation under the Rio Treaty, recommended that the two states, both having ratified the Pact of Bogota, set up a Commission of Investigation and Conciliation. An agreement to do so was signed at the Pan American Union in Washington on January 9, 1956.[13]

The difficulties attendant upon the acceptance and application of the Pact of Bogota reflect the nature of the treaty itself. The conflict between the two views which had existed at Bogota on whether to make settlement of all or only legal disputes obligatory by prescribed methods was settled when the former view prevailed in drafting the Pact.[14] This is an example

12. Annals of the OAS, Vol. VI (1954), p. 169; J. Lloyd Mecham, The United States and Inter-American Security, 1889-1960 (Austin: University of Texas Press, 1961), p. 403.
13. Pan American Union, Legal Division, Department of International Law, Applications of the Inter-American Treaty of Reciprocal Assistance, 1948-1956 (Washington: Pan American Union, 1957), p.212
14. Mecham, U.S. and Inter-American Security, p. 311.

of the tendency, noted by Dr. Manger, for Pan American assemblies to "go too far too fast" in incorporating unacceptable provisions into agreements with the result that the treaties are ineffective for lack of ratifications. "It was a foregone conclusion that this would be the fate of the Pact of Bogota."[15] Formal reservations to the Pact of Bogota were made by seven countries: Argentina, Bolivia, Ecuador, the United States, Paraguay, Peru, and Nicaragua. The objections ranged from that of Argentina concerning the provision for determination of the question of domestic jurisdiction by the International Court of Justice in case of disagreement, to Bolivia's insistence that the procedures should apply to any controversy affecting the vital interests of a state, to United States objection to the ban on diplomatic representations for the protection of nationals.[16] The pace of ratification has been so slow that by 1965, 17 years after the Pact was signed, only 10 member states had ratified it, and the Second Special Inter-American Conference felt constrained to issue yet another appeal for ratifications.[17] It is, therefore, not difficult to see why the Pact of Bogota has been a negligible factor in the settlement of disputes since 1948, and will probably continue to be so. If it ever does become generally accepted and used, a decline or cessation of resort to the Peace Committee can be expected, since use of the Commissions of Investigation and Conciliation of the Pact would seem to preclude the need for the Peace Committee.

In addition to the national policies reflected in the

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15. Manger, Pan America in Crisis, p. 51.
16. Annals of the OAS, Vol. I, pp. 96-98.
17. Resolution XV: OAS, Second Special Inter-American Conference, Final Act, pp. 27-28.

actual use of the various methods of pacific settlement, the reservations and comments by various governments on questions pertaining to Peace Committee structure and powers give a good indication of what are usually permanent and unchanging attitudes. The first specific comment on Peace Committee powers was, as has been noted, Peru's reservation to Resolution XIV of 1940 to the effect that the Committee should function only with the consent of the interested parties.[18] Peru maintained this position and its delegation stated at Caracas in 1954 that, in voting for the resolutions (CI and CII) on the Inter-American Peace Committee, it intended that the 1940 reservation would remain in effect.[19] Though it is not generally known, four other countries indicated in December of 1940 that they had technical reservations concerning Resolution XIV subsequent to the Havana meeting of foreign ministers. Argentina indicated that it approved Resolution XIV on the understanding that the Committee would act only on the request of the parties concerned when Argentina was a party; Chile abstained from voting on the report of the special committee (Venezuela, Guatemala, Haiti) set up to study Resolution XIV and on the Salvadorean Minister's suggestion of the countries to be named to the Resolution IV committee on the ground that the agreements and resolutions of the Second Meeting of Ministers of Foreign Affairs had not yet been ratified by the constitutional bodies of Chile; Honduras reserved the right to exclude her dispute with Nicaragua over

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18. The Department of State Bulletin, August 24, 1940, p. 144.
19. U.S., Department of State, Tenth Inter-American Conference, Caracas, Venezuela, March 1-28, 1954, Report of the Delegation of the United States of America with Related Documents, International Organization and Conference Series II, American Republics 14 (Washington: 1955), p. 175.

execution of the 1907 Arbitral Award by the King of Spain from the Committee's intervention; and the Dominican Republic submitted a sweeping reservation in which she stated that Committee action involving her would be conditional upon a Dominican request, retained the right to resort to the treaties she had ratified, and refused to accept Committee suggestions of methods for peaceful settlements which conflicted with those specified in Dominican-ratified treaties.[20] Of the four technical reservations, only that of the Dominican Republic has ever affected Peace Committee operations. The Dominican reservation was a factor in the Peace Committee's first case--that of the Dominican Republic and Cuba in 1948. When the Dominican Republic requested Committee action in that case, the Cuban representative, Ricardo Sarabasa, stated that, because of the Dominican reservation, Cuba, by reciprocity, was exempted from accepting the competence of the Committee. However, because of the friendly and fraternal spirit shown by the Committee and its members, he indicated that Cuba was willing to deal with the situation by direct negotiations.[21] After this initial dispute had been settled, the Dominican Republic, to bar any further challenges to its right to take a case to the Committee, addressed a note to the Secretary General of the OAS in which it formally cancelled its "clarifying precisions."[22]

The doubts expressed by Mexico and Costa Rica on the Peace Committee's competence to deal with general situations have already been noted.[23] More recently, Mexican Foreign Secretary

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20. Corominas, Caribbean Political Areas, pp. 15-18.
21. Ibid., p. 43; Tenth Inter-American Conference, Second Report, p. 25.
22. Corominas, Caribbean Political Areas, pp. 44-45.
23. Supra, pp. 32, 67.

Antonio Carillo Flores stated at the Second Special Inter-American Conference Mexico's basic faith in the Pact of Bogota as an effective and workable instrument for peaceful settlement and praised Brazil's decision to ratify the Pact. For those states not ratifying, Secretary Carillo Flores suggested acceptance of the obligatory jurisdiction of the International Court of Justice for disputes susceptible of juridical solution. With regard to non-justiciable disputes of a political character, he stated, "Estas controversias, conforme a la experiencia universal, solo encuentron solucion firme a traves del acuerdo derivado de una negociacion directa. Los buenos oficios y la accion conciliatoria es lo mas que razonablemente puede esperarse que pueda auxiliar en la solucion de estos conflictos."[24] Secretary Carillo Flores, quoting President Diaz Ordaz, stated that Mexico would pursue a course of strengthening existing procedures for peaceful change and would always extend a friendly hand toward all countries of the hemisphere, regardless of their problems.[25]

The United States has consistently supported the Peace Committee and has been a member of the Committee for all but one year of its existence. (The United States' second term under the 1956 Statutes ends in the summer of 1966.) Resolution CII of the Tenth Inter-American Conference in 1954 was sponsored by the United States and was adopted "substantially in the form presented by the United States . . . ."[26] In the 1957 Nicaraguan-Honduran conflict, United States Ambassador John C. Dreier,

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24. "Segunda Conferencia Interamericana Extraordinaria," Mexico de Hoy, Vol. XVII, No. 181 (November 1965), pp. 9-10.
25. Ibid., p. 10.
26. U.S., Department of State, Report of U.S. Delegation, p. 14.

speaking before the Council, suggested that the parties could find assistance in resolving the basic causes of the conflict "from the peaceful procedures in effect in the inter-American system, including the services of the Inter-American Peace Committee . . . ."[27] The United States State Department pamphlet on the Organization of American States lists the Peace Committee, the Pact of Bogota, and the Rio Treaty as the three procedures available for dispute settlement within the OAS, the choice depending on the gravity of the situation.[28] Finally, of course, U.S. support for the Peace Committee is evidenced by its efforts in January, 1964, to resolve the Panama Canal Zone situation through that body.

Proposals for changes to the Peace Committee Statutes constitute another indication of national attitudes. The 1948 Bases of Action and 1950 Statutes were, of course, adopted by the original five members of the Committee: Argentina, Brazil, Mexico, Cuba, and the United States. These same countries proposed the revision of the Statutes to the Tenth Inter-American Conference. The draft of the revised Statutes proposed by the Peace Committee was, pursuant to Resolution CII of 1954, referred to the OAS Council. The Council referred Resolution CII to a special 13-member Committee on Juridical-Political Matters which it established on May 19, 1954, to study resolutions on these subjects arising from the Caracas Conference. The Committee was composed of the representatives of Argentina (Chairman), Paraguay (Vice Chairman), Bolivia, Brazil, Colombia, Cuba, Ecuador, El Salvador, Mexico, Peru, the United States, Uruguay,

27. "United States Position on Nicaraguan-Honduran Conflict," The Department of State Bulletin, May 20, 1957, p. 812.
28. U.S., Department of State, Organization of American States, International Organization and Conference Series 11, American Republics 15 (Washington; 1958), p. 14.

and Venezuela.[29] Five months later, on October 20, 1954, the Committee was increased in size to 14 members and Chile was nominated by Argentina to be the additional member.[30] In its study of the question of statute revision, this Committee considered written observations presented to it by the governments of Brazil, Chile, Cuba, Ecuador, El Salvador, Mexico, and the United States.[31] While the particular views of these states have not been published, it is notable that Peru, whose position has consistently been in favor of limiting the Peace Committee's powers, was not one of those presenting observations. The preliminary draft statutes presented to the Council on June 22, 1955, were, the Committee said, a composite--not necessarily representing the views of any particular government or even the views of Committee members.[32] Observations on the preliminary draft statutes, also unpublished, were presented to the Council by Argentina, Brazil, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, and the United States.[33] Again, there was no comment from Peru. However, a comparison of the member states submitting observations on these draft statutes with those originally submitting observations to the Committee on Juricical-Political Matters yields some interesting results. Of the seven governments submitting observations in the first instance (to the Committee) four were members of the Peace Committee. And in the second instance, four of the eight submitting governments were Peace Committee members. Since three Peace Committee mem-

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29. Annals of the OAS, Vol. VI (1954), p. 168.
30. Ibid., p. 248.
31. Annals of the OAS, Vol. VII (1955), p. 169.
32. Ibid.
33. Ibid., p. 194.

bers (Brazil, Cuba, and the United States) submitted observations in both instances and the other two members (Argentina and Mexico) in one instance each, it can be seen that all five Peace Committee members found it desirable to formally express their views on the draft. Of the non-Peace Committee members submitting observations, Ecuador and El Salvador submitted them on both occasions. The members' inclination toward wide Peace Committee powers can be ascertained from an examination of the 1950 Statutes and the Peace Committee's 1954 draft statutes.[34] And the position of Ecuador has since been clearly indicated by its 1959 proposal on revision of the Statutes.[35] Therefore it seems reasonable to assume that the position taken by the Committee on Juridical-Political Matters was probably favorable to restrictions on the Peace Committee's powers--such as those which were actually incorporated in the 1956 Statutes. In view of the changes that were adopted, the observations noted above probably favored wider powers and were undoubtedly a minority view.

In addition to the 1959 Ecuadorian proposal for revision of the Statutes, one other specific proposal has been submitted by an OAS member government. This was a draft resolution on the Jurisdiction of the Inter-American Peace Committee submitted by the government of Haiti to the Second Special Inter-American Conference at Rio de Janeiro in November, 1965. Haiti, the country which had originally proposed the creation of the Peace Committee in 1940 (though the origin of the idea is said to be Ecuadorian),[36] recommended that the Statutes be amended to per-

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34. Supra, pp. 8-10, 11-12.
35. Supra, p. 16.
36. Corominas, Caribbean Political Areas, pp. 11-12.

mit the Peace Committee to take cognizance of a dispute on its own initiative, on request of one of the interested parties, or in conformity with a petition made by an OAS Council resolution, by the Organ of Consultation, a Meeting of Foreign Ministers, an Inter-American Conference, or by some other organ of the OAS or United Nations concerned with peaceful settlement. The Peace Committee would consider a dispute but would not make decisions. Its conciliation, good offices, or mediation could not be rejected.[37] By submitting this resolution, Haiti clearly placed herself on the side of those desiring wider powers for the Peace Committee.

While the Inter-American Peace Committee and resolutions directly pertaining to it were considered by Commission III (Peaceful Solution of Controversies) of the Second Special Inter-American Conference under Subject (Tema) IV, that Commission also considered two very pertinent draft treaties under Subject III, Perfection of the Methods and Instruments of Peaceful Solution of Controversies. These two draft treaties were submitted by Ecuador and Brazil. The Ecuadorian proposal was a draft Inter-American Treaty on Peaceful Settlement, which proposed creation of an Inter-American Council of Peaceful Settlement, composed of one representative from each OAS member state, and which would be empowered to act on its own initiative, at the request of one of the parties to a controversy (by recommending procedures or formulas) or on submission of a dispute by both parties (to resolve the controversy). If the Council's efforts failed, it would be empowered to determine if peace would be

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37. OAS, Segunda Conferencia Interamericana Extraordinaria, Actas y Documentos, Vol. IV (Washington: Pan American Union, 1965), pp. 183-186.

endangered by continuation of the conflict and, if so, a meeting of the Organ of Consultation would be convoked in accordance with the Charter and the Rio Treaty.[38] This treaty, if adopted, would greatly strengthen the conciliatory powers of the OAS and would transform the Peace Committee into a major organ of the OAS. It is a logical development of Ecuador's 1959 proposal for strengthening the Peace Committee and shows the determination with which Ecuador is pursuing this approach.

The Brazilian proposal was a draft Treaty Establishing the Inter-American Peace Council. This treaty would create an Inter-American Peace Council which would be used in situations involving differences or disputes among American states in a manner similar to the present use of the Organ of Consultation in cases of aggression or threats to the peace. On request of the parties to the OAS Council, the Peace Council could be convoked to consider the problems and suggest methods for solution where the parties are unable to agree (Article IV). (Presumably, both parties would have to agree to the request, since the draft does not indicate that one would be sufficient.) Also on request of the parties, the Peace Council could prescribe a solution (in effect, arbitrate). The decisions of the Peace Council would be made by two-thirds majority vote and would be binding on all OAS members. The Inter-American Peace Committee would be an advisory organ of the Peace Council and would act as its investigating committee. The OAS Council would be empowered to act as Provisional Inter-American Peace Council to assist in bringing about direct negotiations between the disputants in the case of a situation affecting peaceful relations be-

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38. Ibid., pp. 31-36, 39-40.

tween American states (Article II).[39] This proposal, while institutionalizing OAS activity in the peaceful settlement of disputes at a higher level than that of the present Peace Committee, and possibly reducing the use of the Rio Treaty for other than actual or threatened armed attacks, has serious limitations. The lack of provision for the convocation of the Peace Council on the OAS Council's own initiative or at the request of only one of the parties to a dispute would, it seems, limit the Peace Council's activities fully as much as the present Peace Committee is limited by its 1956 Statutes. In this respect, Brazil's position would seem to be close to that of the member states desiring restriction of the Peace Committee's powers. A similarity may be noted between this Brazilian draft treaty and the nine new Charter articles on OAS Council responsibilities for peaceful settlement recommended by the March, 1966, amendment-drafting Conference in Panama. The recommended articles would allow the parties to a dispute to request the Council's good offices, but would not permit the Council to act unless all the parties involved agree.[40] Both the Ecuadorian and Brazilian draft treaties were assigned by Resolution XII of the Second Special Inter-American Conference to the Inter-American Juridical Committee for urgent study. The resolution provided that the Juridical Committee's study was to be transmitted to the OAS Council which was to "determine whether or not it is in order to convoke a specialized conference or submit the study for consideration by the Special Inter-American Conference for Amendment of the Charter . . . ."[41] With respect

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39. Ibid., pp. 41-45.
40. The New York Times, news article by Hanry Giniger, April 2, 1966.
41. OAS, Second Special Inter-American Conference, Final Act, p. 26.

to any new powers to be given to the OAS Council or to other organs through amendments to the Charter, Peru, Chile, and Ecuador made statements for inclusion in the Final Act of the Second Special Conference. Peru stated emphatically that powers assigned to the OAS Council should "correspond to those conferred on it by the Inter-American Treaty of Reciprocal Assistance," and that in performing any functions assigned for the peaceful settlement of disputes, the Council "should abide by the fundamental principles of international law set forth in Articles 5.b and 14 of the Charter of the Organization and VI of the Pact of Bogota."[42] Peru thus held strongly to its position that matters settled by treaties between states should not be reopened through the use of dispute-settlement machinery. Chile echoed Peru's sentiments in its statement that "with respect to the powers that could be given to the Council in the future regarding the peaceful settlement of disputes, . . . such powers should be consonant with the provisions of Article VI of the Pact of Bogota."[43] Ecuador, true to her consistent position in this regard, stated her opposition to any Charter amendment which would prevent the OAS from achieving the peaceful settlement of disputes "within a reasonable period" and was emphatically "opposed to the inclusion of the provision contained in Article VI of the Pact of Bogota in such amendments."[44]

Another area to be considered in determining national policies regarding the Peace Committee is that of boundary

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42. OAS, Second Special Conference, Final Act, p. 45.
43. Ibid., p. 47.
44. Ibid., p. 46.

disputes. These disputes are responsible for many of the national attitudes favoring restriction of the Peace Committee's competence. Largely because of the vagueness of many of the Spanish colonial boundaries--precise boundaries being unimportant when Spain controlled almost all of the continent's colonies--there were many uncertain boundaries in existence when independence was attained in the 19th century. The resulting boundary disputes have plagued Latin America ever since. Many of the disputes have been settled, but some still smoulder and affect national policies.[45] One of the more troublesome of these controversies has been that between Ecuador and Peru. The boundary settlement effected in 1942 at the Third Meeting of Consultation of Ministers of Foreign Affairs has never been satisfactory to Ecuador. Ecuador's pronouncements on various occasions concerning the pacific settlement of disputes have reflected this. For example, Ecuador objected in 1948 to Article VI of the Pact of Bogota which states that the procedures of the Pact "may not be applied to matters already settled by arrangement between the parties . . . or which are governed by agreements or treaties in force . . . ."[46] At Caracas in 1954, the Ecuadorian delegation reiterated its 1948 reservation, stating that, in Ecuador's opinion, the Pact of Bogota "should be extended to all matters affecting the vital interests of a state . . . ."[47] In February, 1955, as part of a reservation

45. An excellent chronology and discussion of all of these boundary problems and their status as of the beginning of World War II may be found in two works by Gordon Ireland--Boundaries, Possessions, and Conflicts in South America (Cambridge, Mass.: Harvard University Press, 1938); and Boundaries, Possessions, and Conflicts in Central and North America and the Caribbean (Cambridge, Mass.: Harvard University Press, 1941).
46. Annals of the OAS, Vol. I (1949), p. 91.
47. U.S., Department of State, Tenth Inter-American Conference, Report of U.S. Delegation, pp. 171-172.

to the report of the investigating committee in the Costa Rica-Nicaragua case under the Rio Treaty, Ecuadorian Ambassador Jose R. Chiriboga V. suggested the creation of an Inter-American Police Force for the surveillance of the frontiers of countries fearing intervention or aggression.[48] It was probably no coincidence that later that year, on September 8, 1955, Ecuador went before the OAS Council to invoke the Rio Treaty and to charge Peru with threatening her territory, sovereignty, and political independence by massing troops and war materiel near the Ecuadorian border.[49] Ecuador's proposals for revision of the Peace Committee's Statutes and for the creation of an Inter-American Council of Peaceful Settlement, as well as her reservation at the November, 1965, Rio Conference, are very probably influenced by her desire to reopen the boundary settlement forcibly imposed on her in 1942.

Another simmering boundary dispute concerns Bolivia and Chile. Bolivia still seeks a way of regaining her maritime provinces and access to the sea--lost to Chile in the War of the Pacific. Related, although perhaps not directly connected with this issue, is the dispute over which Bolivia broke diplomatic relations with Chile in 1962. A dispute over Chile's diversion of waters from the Lauca River which rises in Chile and flows into Bolivia led to a Bolivian request for action by the OAS Council in April, 1962. Bolivia's insistence on settlement by mediation and Chile's equally adamant insistence on arbitration or adjudication led to a break in diplomatic relations

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48. Pan American Union, Applications of the Inter-American Treaty, p. 190.
49. Ibid., pp. 227-228.

which still exists.[50]

Other existing border disputes include those of Brazil and Paraguay over a border demarcation in the area of a potential hydroelectric power site on the Parana River and the Argentine-Chilean border problems presently being arbitrated by Great Britain. In what is undoubtedly a direct outgrowth of their positions of opposition to inter-American interference in these border disputes, Brazil and Argentina opposed, in March, 1966, United States efforts at the Panama amendment-drafting conference to give the CAS Council powers to initiate action for the peaceful settlement of disputes without the consent of all the parties.[51]

The adoption of Resolution XIV of the Second Meeting of Ministers of Foreign Affairs in 1940 was a major policy change by the American governments. It was the first indication that the governments would accept, as an instrument of collective mediation, a representative committee of a quarter of their number. Previous inter-American approaches to the peaceful settlement of disputes had all been through the strictly bilateral procedures embodied in the various treaties, conventions, and protocals of the 1920's and 1930's.[52] The use of a committee to represent and act for all the American republics was not a new idea in 1940, but it was of very recent vintage. Its first acceptance, as Edgar Furniss, Jr. points out, was in the establishment of the Inter-American Neutrality Committee in 1939 (later changed to the Inter-American Juridical Committee),

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50. OAS, Council, Letter from the Ambassador, Representative of Chile to the Chairman of the Council of the OAS, dated June 27, 1962, OEA/Ser. G/V, C-d-1000 (Washington: Pan American Union, 1962).
51. The New York Times, news article by Juan de Onis, March 13, 1966.
52. Supra, Chapter 1, pp. 1-2.

and the committee principle was subsequently used in 1942 with the creation of the Committee for Political Defense by the Third Meeting of Foreign Ministers.[53]

There is, however, some doubt as to the actual strength of support for the adoption of Resolution XIV. On one hand, it may well be that, except for the Ecuador-Peru border dispute, the "existing differences" which were the immediate justification for Resolution XIV did not, in fact, endanger continental unity and therefore, no request was made for immediate installation of the Committee. (In the case of Ecuador and Peru, the hostilities which broke out in July, 1941, were terminated through the mediation of Argentina, Brazil and the United States, and Ecuador's threat to stand aloof from any action for continental defense was sufficient to successfully pressure Peru into agreeing to a settlement at the Third Meeting of Foreign Ministers at Rio de Janeiro in 1942. This was a case of actual armed attack and occupation of territory rather than a "dispute" and thus was more like the cases handled under the Rio Treaty than those handled by the Peace Committee.)[54] On the other hand, it may be, as Margaret Ball states, that "subsequent differences of opinion among the governments" on the desirability of activating the committee prevented the appointment of representatives.[55] Miss Ball's view is supported by the existence of the reservations to Resolution XIV cited earlier, even though these reservations were technical ones concerned with the Committee's

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53. Edgar S. Furniss, Jr., "The Inter-American System and Recent Caribbean Disputes," International Organization, Vol.IV (1950), p. 592.
54. Charles G. Fenwick, "The Third Meeting of Ministers of Foreign Affairs at Rio de Janeiro," American Journal of International Law, Vol. 36 (1942), pp. 190-191.
55. M. Margaret Ball, The Problem of Inter-American Organization, (Stanford, California: Stanford University Press, 1944), p. 47.

competence and not with its existence or basic function.[56] Whatever the actual reason for non-activation of the Committee during the war, its activation and operation were readily accepted when the first case was brought to it in 1948.

In spite of the delay in the actual formation of the Peace Committee, the American states have continued to use committees in handling the problems of peaceful settlement of disputes and inter-American security. "Subcommittees of information" have been used by the Peace Committee and both investigative and ad hoc committees have been employed by the OAS Council acting as Provisional Organ of Consultation. These latter committees, used by the Council in handling situations brought before it under the Rio Treaty, are not specifically authorized by either the OAS Charter or the Rio Treaty. They can be justified, however, by Article 55 of the Charter which allows the Council to formulate its own regulations and by Article 21 of the Rio Treaty which provides that "the measures agreed upon by the Organ of Consultation shall be executed through the procedures and agencies now existing or those which may in the future be established."[57] In any case, the use of investigative and ad hoc committees by the Provisional Organ of Consultation has been sanctioned in practice by two-thirds of the states signatory to the Rio treaty which indicates a continuing acceptance of the committee principle by the American governments.

The question of the status of the Inter-American Peace Committee within the structure of the OAS seems to have aroused little national concern. Since it was neither specifically

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56. Supra, pp. 72-73.
57. Annals of the Organization of American States, Vol. I (1949), pp. 81, 89.

incorporated in the OAS Charter at Bogota nor eliminated as one of the peaceful settlement procedures which the Pact of Bogota replaced, the Peace Committee's legal status must be regarded as being in a kind of "limbo." By placing the question on the agenda of the Tenth Inter-American Conference, the OAS Council obviously intended that a determination of the Committee's status should be made at that time. Unfortunately, Committee I on Juridical-Political Matters, which was responsible for the Peace Committee item at Caracas, was heavily occupied with other matters and did not spend much time considering the Peace Committee. While there was "general agreement that the Committee should be continued and that its status within the Organization of American States should be clarified," no attempt was made to consider the Peace Committee's proposals and no recommendation was made concerning its status.[58] Resolution CII's request to the OAS Council to prepare new statutes for the Peace Committee had the effect of removing the Committee's self-appointed power of drafting and changing its own statutes, but there was no change in the Committee's legal status which continues to be based on Resolution XIV of 1940. Some concern for the Peace Committee's status may be inferred from the Ecuadorian and Brazilian proposals at the Second Special Inter-American Conference--proposals which would create new organs within the OAS structure incorporating the Peace Committee's functions.[59] And yet no serious question was raised over the

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58. U.S., Department of State, Tenth Inter-American Conference, Report of U.S. Delegation, pp. 13-14.
59. Supra, pp. 78-80.

present status of the Peace Committee nor was any attempt made to incorporate it specifically into the OAS structure.

The foreign policies of the various American republics have, then, had significant effects on the structure and operations of the Inter-American Peace Committee from its beginning in 1940 to the present day. The results of those policies can be seen in the Committee's initial inactivity, its installation in 1948, the various occasions of request for Committee services, the agreement to or refusal of Committee action, and the decisions of 1956 to restrict Committee competence, of 1959 to widen it, and of 1965 to limit it again. The primary factors involved in the successful efforts to curb the Committee's powers in 1956 were undoubtedly the existence of the border disputes described above and the Latin Americans' historically strong opposition to intervention. These same factors are also the basis of much of the opposition which has since arisen to the strengthening of OAS machinery for the peaceful settlement of disputes. And while it is difficult to determine directly the effect that Peace Committee operations have had on foreign policies, it seems certain that Committee action in cases in which one of the parties has refused to accept its services--such as the 1954 Colombia-Peru asylum case and the cases involving the Dominican Republic and Cuba under Resolution IV of 1959--has tended to strengthen the attitudes of those who would limit Peace Committee competence. A decision to enlarge the Committee's powers and expand its competence is unlikely to be achieved unless some compromise can be reached which will satisfy the objections of these states.

CHAPTER 4: THE PEACE COMMITTEE COMPARED TO OTHER REGIONAL EFFORTS

The record of the Inter-American Peace Committee in the collective mediation of disputes between nations is unique among regional international organizations. Only two other regional groups, the League of Arab States and the Organization of African Unity, provide for any form of collective mediation among their members. Neither has yet been effective in practice. The more specialized organizations, such as the Council of Europe and the regional security groups, have even less efficient arrangements for intra-organizational dispute settlement.

The Pact of the League of Arab States was signed in Cairo, Egypt, on March 22, 1945, and created, in the words of Azzam Pasha, its first Secretary General, "an instrument of constructive co-ordination and co-operation on mutual interest."[1] The Pact provides for two principle organs, the Council, composed of representatives of each of the member states, and a permanent Secretariat. The formal dispute-settlement machinery of the League is described in Article 5 of the Pact. This article prohibits the use of force in settling disputes between member states and provides for the voluntary submission to Council arbitration of disputes in which the independence, sovereignty, or territorial integrity of the parties are not involved. Council mediation is required in all disputes in which the differences threaten to lead to war between member states or with a third state.[2]

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1. Mahomed Shafi Agwani, "The Arab League: An Experiment in Regional Organization," India Quarterly, Vol IX (1953), p. 361.
2. Robert W. MacDonald, The League of Arab States (Princeton: Princeton University Press, 1965), p. 321.

The limited machinery for dispute settlement provided by Article 5 has been ineffective in practice. Instead of becoming a tightly-knit regional organization, the Arab League has evolved as a loose association of states. The sense of nationalism common to most newly-emergent states has produced an extreme sensitivity in matters involving national sovereignty and has limited the usefulness of the arbitration provisions of Article 5. The mediation provision is weakened by the requirement that a dispute must be so serious that war threatens to erupt before the Council's mediation becomes mandatory. Even when such a case exists, the Council's powers of mediation cannot ensure that a peaceful solution is achieved. As a result, the League was unable to act in the Lebanese crisis of 1958, the situation in Yemen since the 1962 coup d'etat, and the Algeria-Morocco border dispute of October, 1963. In practice, disputes have been handled by traditional means--mediation, conciliation, and arbitration--or the League has resorted to the good offices of the Secretary-General and to ad hoc investigating commissions.[3]

The Organization of African Unity (OAU) is the newest of the regional international organizations, having been formed at a conference of African states at Addis Ababa in 1963. The members of this organization, realizing that peace and stability in their mutual relations were essential in order to achieve the political, economic, and social development they so urgently desired, made the peaceful settlement of disputes one of the seven basic principles of the CAU. Indeed, T.O. Elias, Nigerian Attorney General and Minister of Justice, and one of the framers

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3. Ibid., pp. 240-242.

of the OAU Charter, states that "the fourth principle, that of peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration, is probably the most fundamental of all the seven principles enshrined in Article 3."[4] To aid in the fulfillment of the fourth principle, Article 19 of the Charter created a Commission of Mediation, Conciliation and Arbitration. This Commission, whose composition and conditions of service were to be defined later by a separate protocol, was considered to be of such importance that it was made one of the four principle institutions of the organization, the others being the Assembly of Heads of State and Government, the Council of Ministers, and the Secretariat.[5]

There is as yet no indication that the Commission of Mediation, Conciliation and Arbitration has considered any disputes. The new African states have found their most serious political problems to be internal rather than in their relations with each other. Of the external problems they have encountered, that of external assistance to subversive activities was considered serious enough to warrant a "Declaration on the Problem of Subversion" at the Second Session of the Assembly of Heads of State and Government at Accra, Ghana, in October, 1965. The OAU heads of state, after declaring their agreement not to tolerate subversive activities within their states directed against another state, agreed "to resort to bilateral or multilateral consultation to settle all differences between two or more Member States" and to utilize the procedures specified in the OAU Charter and the Protocol of Mediation, Conciliation and Arbitration.[6]

4. T.O. Elias, "The Charter of the Organization of African Unity," American Journal of International Law (AJIL), Vol. 59 (1965), p. 249.
5. Ibid., p. 264.
6. International Legal Materials, Vol.V, No.1 (january,1966), p.138.

Although not formally organized as an international organization and certainly not fitting the term "regional" in any way, the British Commonwealth of Nations is nevertheless a grouping of nation-states which deserves special mention. The Commonwealth has no constitutive document and no rule binding upon its members, yet its greatest strength, based upon "experience" and "common growth" has been described as "the ability of its members to act together, despite the lack of any logical series of binding laws and regulations . . . ."[7] In an association in which this degree of unity of action has been achieved, one might expect to find some formal arrangement by which disputes among its members could be resolved. Such, however, is not the case. The United Kingdom and the Dominions had, in signing the Optional Clause of the Statute of the Permanent Court of International Justice in 1929, expressly reserved intra-Commonwealth disputes from the Court's jurisdiction,[8] yet no mechanism for handling such disputes was created at that time. In 1930, an Imperial Conference report stated that "some machinery for the solution of disputes which may arise between Members of the British Commonwealth is desirable."[9] The best that could then be achieved was agreement on ad hoc arbitration of disputes as they arose and limitation of the arbitration to questions of a justiciable nature.[10] After the only attempt at use of an ad hoc arbitration tribunal failed in 1932 following the refusal of the Irish Free State to accept it, Arnold Toynbee, in his

7. Guy Arnold, Towards Peace and a Multiracial Commonwealth (London: Chapman and Hall, Ltd, 1964), p. 76.
8. Arnold J. Toynbee, ed., British Commonwealth Relations, Proceedings of the First Unofficial Conference at Toronto, 11-21 September 1933 (London: Oxford University Press, 1934), p. 107.
9. Gerald E. H. Palmer, compiler, Consultation and Co-operation in the British Commonwealth (London: Oxford University Press, 1934), pp. 120-121.
10. Ibid., p. 121.

report of the 1933 Toronto Conference, stated again the desirability of a permanent tribunal to resolve intra-Commonwealth disputes: "The need for a Commonwealth Tribunal to settle such disputes between the Governments of the British Commonwealth arises because the relations between members of the British Commonwealth are of a special character, and this relationship renders inappropriate in the case of intra-Commonwealth disputes the application of the procedure applicable in the case of international disputes."[11]

Despite the "special character" of the Commonwealth relationship and the "inappropriateness" of normal methods of international dispute settlement, no Commonwealth Tribunal was ever established. Disputes which have occurred among Commonwealth countries have been settled, if at all, by normal diplomatic methods. The 1965 hostilities between India and Pakistan in Kashmir, for example, were ended and agreement reached on withdrawal of troops through the mediation of the Soviet Union in Tashkent.[12]

Within the specialized regional international organizations there is even less concern for dispute settlement among members than is the case in the more general organizations described above. The regional security organizations, such as NATO, are primarily oriented toward external dangers. The NATO Council, composed of government ministers or of permanent representatives when the ministers are not present, meets weekly and is available for political consultation among the members. The NATO Secretary-General, who presides at the Council meetings, is

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11. Toynbee, British Commonwealth Relations, p. 107.
12. The New York Times, January 11, 1966.

authorized to mediate in disputes between NATO members if the parties invite him to do so.[13] This NATO machinery, unused for dispute settlement in practice, nevertheless remains available for such use in the future.

The Council of Europe is somewhat more generally oriented than NATO, yet it has even less power to reconcile disputes among its members. There is, in fact, no mention of dispute settlement in the Statute of the Council of Europe. This matter is left entirely to the procedures and obligations of the United Nations Charter.[14]

The dispute-settlement powers of functional regional organizations such as the European Economic Community (EEC) are generally confined to issues pertaining to the execution of the treaty which established the organization. In the EEC, the Council of Ministers, composed of representatives of the governments of the Community members, is empowered to make decisions to ensure the coordination of the member states' general economic policies. Legal issues involving the treaty or the acts of Community organs are decided in a Court of Justice.[15] A similar organization, the Latin American Free Trade Association (LAFTA), does not yet have even the limited peaceful settlement machinery of the EEC. The Montivideo Treaty of 1960 which established LAFTA provided no system for the settlement of disputes arising as a result of its application. Recognizing the desirability of having such a mechanism, the 1965 meeting of LAFTA foreign ministers adopted a resolution (Resolution 4) which called

13. PEP (Political and Economic Planning), European Organizations (London: George Allen and Unwin Ltd, 1959), pp. 165-179.
14. M. Margaret Ball, "The Organization of American States and the Council of Europe," British Yearbook of International Law (BYIL), Vol. 26 (1949), p. 167.
15. PEP, European Organizations, pp. 308-312.

upon the Executive Committee of LAFTA to draw up before July 31, 1966, a draft protocol for the ministers of foreign affairs to consider at their next meeting. The protocol was to include provisions for a) compulsory negotiations between parties; b) compulsory conciliation, with mediation by the LAFTA Executive Committee; c) system of ad hoc arbitration tribunals; and d) provision for acceptance of compulsory jurisdiction of the ad hoc tribunals and a system of sanctions to enforce compliance with arbitral awards.[16]

The foregoing brief descriptions of the capabilities of other regional international organizations in the peaceful settlement of disputes among their members should serve to illustrate the vast difference between the powers of these organizations and those of the OAS in this important area. It may well be that the lack of success of the Arab League is in large measure due to the fact that it has not had effective, institutionalized machinery for the peaceful resolution of disputes among its members. And the resulting dissention has rendered the League incapable of unified policy or action in pursuit of its goals. The members of the OAU have, on the other hand, recognized the vital role that peace and stability play in the process of development. In making the Commission of Mediation, Conciliation, and Arbitration one of its four principle organs, the OAU has gone beyond the present state of development of the OAS. OAU structure, however, has not yet been tried and proven. And while the internal political situations of the African states remain unstable, it is unlikely that the OAU members will concentrate on external disputes.

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16. International Legal Materials, Vol.V, No.1 (January, 1966), p.127.

While it is likely that future development may be expected in the dispute settlement machinery of the Arab League and the CAU, such development is not probable in the more specialized regional organizations. The peaceful settlement of disputes appears to be a function only of the more generalized international organizations, whether on a regional or a world basis. It is probably best left outside the scope of the more specialized organizations.

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From its obscure beginning in Resolution XIV of the Second Meeting of Ministers of Foreign Affairs in 1940, the Inter-American Peace Committee has deveolped into a major peacekeeping instrument within the OAS. There can be little argument with Professor J. Lloyd Mecham's conclusion that "as a security instrument the Inter-American Peace Committee has achieved a status in the inter-American System second only to the Rio Treaty."[17] Indeed, the Peace Committee has handled 18 cases in the period 1948-1965, while only 11 cases have been handled under the Rio Treaty procedures during the same period. The number of cases handled, however, does not indicate the true importance of the Peace Committee as a peaceful settlement mechanism. The Committee represents a distinctly new approach to the problem of international dispute settlement. By creating the Peace Committee, the American states appeared to recognize that the solution of disputes between individual states was of concern to all of them--that there was a community interest in maintaining peaceful relations among the nations of the hemisphere. But how strong was this community interest? Was it

17. J. Lloyd Mecham, A Survey of United States-Latin American Relations (Boston: Houghton Mifflin Company, 1965), p. 179.

only the threat of danger from outside the hemisphere that made agreement possible? The history of the development of the Peace Committee's Statutes would seem to indicate this possibility. In 1940, when the external danger and the need for unity were great, there was general agreement that an inter-American body was necessary to ensure that disputes between the American states were settled peacefully. By the 1954-56 period when the Committee's status was questioned and its statutes revised, no direct threat to the continent and no urgent need for unity existed. Therefore, the Peace Committee's competence was so restricted that it has become merely another procedure that disputants could use if they jointly agreed to do so. The extension of Committee powers from 1959 to 1965 brought no change, because it applied only to the area of investigation assigned under Resolution IV.

The lack of a direct threat to the hemisphere is not, however, an adequate explanation for the restriction of the Peace Committee's powers in 1956. If interest in the resolution of controversies through a community organ waned, it was more likely a result of the uses which had been made of the Peace Committee and the reaction of the member states to these activities. Three factors would seem to be primarily responsible for the change. It will be recalled that the cases handled by the Peace Committee prior to 1956 involved primarily a small group of Caribbean states whose primary interest lay in toppling each others' governments. Dr. William Manger has correctly noted that, whereas in each case the dispute was officially settled through the Peace Committee's action, in reality nothing was solved.[18] The parties to most of these disputes were not, in

18. William Manger, Pan America in Crisis, p. 50.

fact, really interested in settling their differences when they appealed to the Peace Committee. They were more interested in airing the dispute before public opinion, building up support for their own position, and castigating their opponents, in effect, using the Peace Committee as a political sounding board.

A second factor which led to restriction of Committee powers was the Committee's action in the face of announced opposition of one of the directly-interested parties. This occurred most notably in 1954 in the Colombia-Peru asylum case and in the Guatemala-Honduras-Nicaragua case. In both of these disputes, the Peace Committee pursued its consideration of the case despite the opposition and uncooperative attitude of one of the parties. In the first case the Committee studied the controversy surrounding the asylum of APRA leader Haya de la Torre despite Peru's objections, and adopted a set of conclusions which suggested further direct negotiations. In the second case, the Committee continued to pursue the controversy at the behest of Honduras and Nicaragua even though Guatemala had withdrawn its request and refused to cooperate. It was not until the three governments concerned reached an agreement to resolve the dispute themselves that the Peace Committee's investigation was terminated.

A third factor behind the loss of support for broad Peace Committee power and competence undoubtedly lies in the changed international situation--both in the Caribbean and on the world scene. With the 1948 counter-revolution in Venezuela, the presidential changes in Cuba and Costa Rica in 1948 and 1949 and the 1952 election of Batista in Cuba, the support of democratically-inclined countries for Peace Committee action against dic-

tatorships was largely eliminated. The attitude of the United States in this respect also changed during the same period. The advent of the Korean War, the previously-noted decline of democratic governments in the area, and the Guatemalan affair of 1954 led to the United States' grave concern over combating the spread of Communism into the Western Hemisphere. Because of a need for hemispheric support, the United States was in no position to oppose the majority's decision to restrict the Committee's powers in 1956.

The above three factors, combined with the unchanging attitude of states like Peru, which had opposed the broad powers assumed by the Committee from the beginning, and Mexico, which had indicated in 1949 that it felt the Committee was exceeding its competence in considering general situations, were probably responsible for the support given in 1956 to the requirement of mutual consent by both parties prior to Peace Committee action. Since 1956, there has been little outward indication of enough change in national policies concerning the Peace Committee to support another revision of the Statutes.

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Are there possibilities of change in the Peace Committee's Statutes or its status within the inter-American system? The Second Special Inter-American Conference had before it four proposals concerning the peaceful settlement of disputes. These included the proposals of the Peace Committee and of Haiti for the revision of the Statutes to return, essentially, to the provisions of the 1950 Statutes, and the proposals of Ecuador and Brazil to establish new organs within the OAS structure. It is probable that none of these proposals will be accepted.

While the former two proposals (Peace Committee's and Haiti's) were referred to the OAS Council for consultation with the member states and possible amendment action, and the latter two proposals were referred to the Juridical Committee for study, the subject of peaceful settlement of disputes was also placed on the agenda of the Special Committee which was to meet in Panama to prepare draft proposals on amendments to the OAS Charter.

The Special Committee, composed of representatives of all OAS member states, met in Panama from February 25th to April 1st, 1966. Among the new articles which the committee proposed as amendments to the Charter are several which, if accepted, will end the existence of the Inter-American Peace Committee as a separate entity and will thus end further consideration of the Committee's Statutes. Under Chapter XIV of the proposed revisions, the functions of the Peace Committee would be incorporated into those of the OAS Council, which would then be called the "Permanent Council." Articles 5 through 13 of new Chapter XIV cover the present Peace Committee's functions. Article 5 states:

> The Permanent Council shall keep vigilance over the maintenance of friendly relations among the member states, and for that purpose shall effectively assist them in the peaceful settlement of their disputes, in accordance with the following provisions.[19]

This article, of course, is strongly reminiscent of the first paragraph of Resolution XIV of 1940 which called for a

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19. OAS, Special Committee to Prepare a Preliminary Draft Proposal on Amendments to the Charter of the Organization of American States, Final Act of the Special Committee to Prepare a Preliminary Draft Proposal on Amendments to the Charter of the Organization of American States, OEA/Ser.K/XIII/1.1 (Washington: Pan American Union, 1966), p. 19.

committee to keep "constant vigilance." Proposed Article 6 provides for a committee as a subsidiary organ to assist the Permanent Council in the exercise of its peaceful settlement powers. This recommended committee is, in fact, the present Inter-American Peace Committee. (The subcommittee working on this section of the Charter was unable to agree on whether to keep the present name or to change it to "Peaceful Settlement Committee" and therefore left the name blank.)[20] The proposed Charter Articles further provide that parties to a dispute may request the good offices of the Permanent Council which could then recommend appropriate procedures (Article 7). The Permanent Council could determine the facts in the dispute but would need the consent of the governments concerned to enter the territory of a party (Article 8). If no other peaceful settlement procedure were being followed, any party to a dispute could appeal to the Permanent Council which would then refer the request to its subsidiary committee (Peace Committee). This Committee, however, could not act until an offer of good offices is made and accepted by the other party (Article 9). Refusal of the Committee's offer of good offices would result in a Committee report to the Permanent Council (Article 10) and further refusal of Council attempts to gain acceptance of its good offices would result in a report to the General Assembly (Article 11). (The General Assembly is to replace the Inter-American Conference and meet on a yearly basis.) Articles 12 and 13 provide for the voting rules of the Permanent Council (two-thirds majority required except for procedural decisions)

20. CAS, Comision Especial para la Preparacion de un Anteproyecto de Reformas a la Carta de la Organizacion de los Estados Americanos, Actas y Documentos, Vol. 1, OEA/Ser. K/XIII.1.2 (Vol. 1) (Washington: Pan American Union, 1966) p. 189.

and for application of the Charter, international law, and the treaties in force between the parties in the exercise of their functions by the Council and Committee.[21]

The record of voting in the subcommittee (Group "C" of Subcommittee I) which considered the provisions eventually incorporated into the above articles gives an indication of the strength of support for these amendments to the Charter. Eighteen nations were represented in the Group--Haiti and the Dominican Republic, as well as Cuba, being missing. The votes on the individual provisions (in favor, opposed and abstentions) generally ranged from 12-0-5 to 15-0-2. There was only one provision on which the vote was less favorable--that which would provide for Permanent Council cognizance of disputes and which became Article 5 of Chapter XIV in the Special Committee's Final Act (quoted above). The vote on this basic provision by Group "C" was 9-5-1. The final vote taken by Group "C" on the entire group of recommended provisions was 12-2-4 and was broken down as follows:

In favor:	Mexico, Honduras, Chile, Argentina, Uruguay, Nicaragua, Costa Rica, Colombia, Peru, El Salvador, Brazil and Panama.
Opposed:	Bolivia and Ecuador
Abstentions:	United States, Paraguay, Guatemala, and Venezuela.[22]

Bolivia and Ecuador, whose border controversies and national policies were discussed in Chapter 3, are conspicuously the only dissenters on the final vote. Ecuador had, during the Group's deliberations, introduced a change to the third proposition which would have changed the phrase "the parties to a dispute may resort to the Permanent Council" to read "any party to

21. OAS, Special Committee, Final Act, pp. 19-20.
22. OAS, Comision Especial, Actos y Documentos, Vol.1, pp.187-189.

a dispute may resort . . . ."[23] This proposal resulted in a "long debate" and was defeated by a 6-7-3 vote.[24]

The working group voting figures and the adoption of the recommended provisions by the Special Committee in its Final Act indicate that the proposed articles on peaceful settlement powers for the OAS Council are likely to become Charter amendments without further substantial change. There is, of course, a possibility that enough additional votes might be obtained to reverse the defeat of the Ecuadorian proposal and to change the wording to permit any one of the parties to request Council action. But in view of the voting margins favoring the proposed amendments, such a reversal does not appear likely. Only a major restriction in the Council's peaceful settlement powers--such as eliminating from its competence any disputes involving boundaries and matters of exclusively domestic jurisdiction--would be sufficient to overcome the objections of such countries as Peru, Chile, Argentina and Brazil. And such a restriction might well limit the Council's usefulness even more than the need for mutual consent now limits the Peace Committee.

For the present, then, it is probable that mutual consent will continue to be a requirement for OAS participation in the peaceful settlement of disputes. Agreement on waiving that requirement can be expected only in case of an area crisis such as that of the Caribbean in 1959 or in that day in the distant future when greater economic and political integration have occurred. When integration has reached the point where the

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23. Ibid., pp. 181, 187.
24. Ibid., p. 181.

juridical and political issues of a dispute can be separated and dealt with individually, the American states may be willing to accept OAS intervention without giving consent in advance. Until that day, the inter-American community will have to depend on the pressures of public opinion, the rationality of its members, or their willingness to bind themselves to peaceful settlement through instruments such as the Pact of Bogota.

CHAPTER 5: DEVELOPMENT AND THE NEED FOR PEACEFUL SETTLEMENT

Economic development has become a primary objective and rallying point for the underdeveloped countries of the world. These countries, through organized efforts in the United Nations Conference on Trade and Development (UNCTAD) and the General Agreement on Tariffs and Trade (GATT), are attempting to obtain the aid and cooperation of the more industrial nations to attain their objective. A major expression of United Nations effort in this area is the establishment of the United Nations Development Decade, 1960-1970. One objective of this program is the attainment of at least a five per cent yearly growth rate in the incomes of developing countries.[1]

Latin America has a major interest in these organized efforts to foster economic development. Indeed, the author of most of the important theoretical work on the basic economics of the problem is the Argentine economist, Dr. Raul Prebisch, former Chairman of the United Nations Economic Commission for Latin America and now Secretary General of UNCTAD. Initial Latin American organizational efforts in the field of economic development were the Central American Common Market and the Latin American Free Trade Association. In 1960-1961, Latin American economic and social development were placed on an inter-American cooperative basis through the Act of Bogota and the Charter of Punta del Este. In 1965, at the Second Special Inter-American Conference in Rio de Janeiro, the American states decided to incorporate the Act of Bogota and Charter of Punta del Este into the OAS Charter by amending the Charter to "include

1. United Nations, Towards a New Trade Policy for Development, E/Conf. 46/3 (New York: United Nations, 1964), p. 3.

additional standards for inter-American cooperation in the economic, social, and cultural fields."[2]

In neither the organizations for Latin American economic integration nor the move to incorporate the economic and social development of Latin America into the OAS Charter, was much apparent thought given to the relationship between economic development and the peaceful settlement of disputes. In contrast, the African states recognized the need for a peaceful settlement mechanism as part of the development process in 1963 when they created the Organization of African Unity (OAU). T. O. Elias, Attorney General and Minister of Justice for the Federation of Nigeria, clearly states the Africans' concern and proposed solution for this problem:

> . . . the Member States feel that the peace which they so sorely need is in danger of being threatened by frontier and border disputes between some of their number. It is, therefore, of the first importance to all of them that the principle of peaceful settlement of all disputes by negotiation, mediation, conciliation or arbitration should be enshrined in a unique manner in the Charter of the Organization of African Unity. This they have endeavored to do by making additional specific provision in Article 19 of the Charter for the establishment of a Commission of Mediation, Conciliation and Arbitration, which is not a mere Specialized Commission but one of the four principle institutions of the Organization.[3]

In the Organization of American States, however, no similar concern was evident. The Economic and Social Act of Rio de Janeiro in 1965 set up guidelines for the Special Committee which was to prepare the preliminary draft amendments to the OAS

2. OAS, Second Special Inter-American Conference, Final Act, p. 7.
3. T. O. Elias, "The Charter of the Organization of African Unity," American Journal of International Law (AJIL), Vol. 59 (1965), p. 249.

Charter. Chapter I of these guidelines, entitled Political Security and Economic and Social Development, states the intention of applying to the economic and social field the same principles of solidarity which form the basis of inter-American cooperation in the political and mutual security fields:

> To achieve the objectives of the Alliance for Progress, the obligation to cooperate in the solution of economic and social problems is essential, inasmuch as these problems can disturb relations among peoples, limit the opportunities to affirm the dignity of the individual, limit the full exercise of democracy, and endanger the peace and security of the nations.[4]

But while suggesting the existence of economic and social problems as a causative factor in popular disturbances and threats to international peace, the amendment-drafting guidelines fail to mention the opposite relationship--that is, the need for peaceful, stable relations between countries to permit development goals to be achieved. The latter relationship exists as much for Latin America as it does for the new African countries even though the Latin American economies may be further along the path of development.

The problem of Latin American economic development has been eloquently described by Dr. Raul Prebisch. Dr. Prebisch has pointed out that the decline in the growth rate of Latin American countries since the end of World War II, combined with the rapid rise in the rate of population growth, has resulted in an annual growth of per capita product of only 1.4 per cent.[5]

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4. OAS, Second Special Inter-American Conference, Final Act, p. 11.
5. United Nations, The Economic Development of Latin America in the Post-war Period, E/CN.12/659/Rev.1 (New York: United Nations, 1964), p. 1.

The decline in the development growth rate has been caused by a number of factors, the most important of which have been: 1) the decrease in terms of trade for primary products, and 2) the increase in the rate of population growth. The swelling of the excess active population in the period 1945-1962 has created what Dr. Prebisch terms a "surplus manpower bottleneck." To remove this bottleneck and increase the rate of economic growth will require the injection of a large amount of capital:

> The absorption of this surplus would have required at present an available supply of capital for the production and transport of goods about 27 per cent above the existing level; and the average annual growth rate of the per capita product in these activities would have had to be 3.7 instead of 2.3 per cent.[6]

If the rate of Latin-American development is to be increased, where will this vast amount of capital required be obtained? The Alliance for Progress envisions an input of external capital of over 20 billion dollars by 1970, coming from United States public funds, international institutions such as the World Bank, other developed nations, and increased private investment.[7] External capital, however, will not be enough; internal sources must also be utilized. The Social Progress Trust Fund of the Inter-American Development Bank has had, as a basic condition for the use of its resources for land use, housing, water supply, and education projects, a requirement that the recipient countries exercise self-help through the

6. United Nations, Towards a Dynamic Development Policy for Latin America, E/CN.12/680/Rev. 1 (New York: United Nations, 1963)p. 26.
7. Lincoln Gordon, A New Deal for Latin America: The Alliance for Progress (Cambridge, Mass.: Harvard University Press, 1963), p.46.

mobilization of their internal resources.[8] This mobilization is currently accomplished in the public sector through improvement in the tax structure and tax enforcement, and in the private sector through the development and strengthening of savings and loan associations, development financing institutions, capital markets, etc.[9]

The magnitude of the tasks to be accomplished in infrastructure development make it obvious that the internal resources being mobilized by the above methods will be insufficient. There is, however, another possible source of internal development capital which is presently untapped. This source lies in the funds now being expended by most Latin American governments for the equipping and maintenance of military forces. The military has been a significant factor in Latin American life since the achievement of independence, and the military's share of the national budgets has been correspondingly large, averaging 20-25 per cent annually, and sometimes significantly greater.[10] Such a diversion of the limited resources available to most Latin American governments greatly inhibits their development efforts. Despite the high rates of illiteracy in most countries, the military budget often exceeds the amount devoted to public education.[11] Charles Wolf, Jr., obtained the data shown in Figure 1 for the average expenditures during the period 1950-1960. It can be seen that three of the four largest spenders--Argentina, Brazil, and Chile--averaged a total of almost $605 million during the period. These three nations are neighbors, and the question

8. Inter-American Development Bank, Social Progress Trust Fund, Fifth Annual Report, 1965 (Washington: Inter-American Development Bank, 1966), p. 94.
9. Ibid., pp. 94-97.
10. Alexander T. Edelmann, Latin American Government and Politics (Homewood, Illinois: Dorsey Press, 1965), p. 184.
11. Ibid., p. 185.

FIGURE 1

Average Annual Defense Expenditures
For Latin American Countries, 1950-1960[12]
(In 1960 U.S. dollars)

Country	Average Annual Defense Expenditures, 1950-1960 (in millions)	Rank	Average Annual Per Capita Defense Expenditures, 1950-1960 (dollars per capita)	Rank
Argentina	234.82	2	13.43	3
Bolivia	3.34	13	1.03	14
Brazil	265.46	1	4.50	5
Chile	104.58	4	14.88	2
Colombia	60.55	6	3.88	6
Costa Rica	1.73	14	1.78	12
Ecuador	14.33	8	3.71	7
El Salvador	5.89	10	2.63	8
Guatemala	6.93	9	2.09	11
Haiti	5.26	11	1.57	13
Honduras	3.73	12	2.25	9
Mexico	68.79	5	2.14	10
Peru	49.85	7	5.26	4
Venezuela	107.64	3	17.97	1

12. Charles Wolf, Jr., "The Political Effects of Military Programs: Some Indications from Latin America," ORBIS, Vol. VIII, No. 4 (Winter, 1965), p. 889.

arises as to whether the possibility of threatened aggression is a cause for high military expenditures. But there have been no such threats, and the only likely source of ill feeling--a border dispute between Argentina and Chile--is being arbitrated by Great Britain.

The charge is sometimes made that United States military assistance programs have contributed significantly to Latin American military expenditures and have, in turn, been a factor in enabling the military to intervene and upset governmental stability. According to Edwin Lieuwen, "the strengthening of the armed forces, for defense or for preserving internal order, seems only to give encouragement to the Latin American officer corps to convert themselves into even more highly political instruments than they are already."[13] The facts, however, do not confirm these charges. The amount of United States military assistance to Latin America has actually been very limited. Assistance appropriations from the U.S. have averaged five per cent or less of the total Latin American military budgets during the period 1950-1963.[14] Moreover, the charges that military assistance and large Latin American defense expenditures are causative factors in governmental instability are disproved by Charles Wolf's research comparing political development and defense expenditures. Wolf found that large military programs were not necessarily associated with restrictive and authoritarian political institutions or with movements toward them. In fact, the per capita

13. Edwin Lieuwen, Arms and Politics in Latin America (New York: Praeger, 1961), p. 231.
14. Catherine McArdle, "The Role of Military Assistance in the Problem of Arms Control: The Middle East, Latin America, and Africa," Research Paper C/64-24 (Cambridge, Mass.: Center for International Studies, M.I.T., 1964), p. 50.

figures showed the highest annual per capita defense expenditure to have been made by Venezuela--a relatively liberal country since 1958--while the second lowest annual per capita expenditure was made by Haiti, an extremely repressive regime.[15] Further support for Wolf's conclusions came in 1964 testimony by Frank K. Sloan, Deputy Assistant Secretary of Defense (International Security Affairs) for Regional Affairs before the House Committee on Foreign Affairs:

> We wish to state unequivocally that we find no foundation for the frequent allegation that U.S. military assistance programs are contributing to revolutions in Latin America. The statistical facts are that the rate of revolutions is no higher than it has been for many generations before the MAP program began in 1952.[16]

Another contention made regarding United States military assistance programs is that more restrictive selling policies would inhibit Latin American acquisition of expensive modern military equipment, thus encouraging reductions in military budgets and possible diversions of funds to economic improvements. But, as noted in Annex C of the 1959 report of the President's Committee to Study the Military Assistance Program (the Draper Committee):

> There is no reason to assume that a nation, were it cut off from U.S. military aid, will invest more of its own funds in economic enterprises. On the contrary, countries who were refused U.S. military aid, are apt to purchase military equipment elsewhere. This is particularly true in Latin America.[17]

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15. Wolf, "Political Effects of Military Programs," p. 886.
16. U.S., Congress, House of Representatives, Committee on Foreign Affairs, Hearings on the Foreign Assistance Act of 1964, 88th Cong., 2nd sess. (Washington, 1964), p. 502.
17. U.S., President's Committee to Study the United States Military Assistance Program, Composite Report, Vol. II. (Washington, 1959), p. 70.

Edwin Lieuwen has noted in this regard that United States pricing and selling policies between 1951 and 1956 resulted in the purchase of "seventy-four ships, hundreds of airplanes, and a large variety of army equipment from European and Asian suppliers."[18] The largest source of purchases, however, was the United Kingdom and the most frequent buyers were Argentina, Brazil, Ecuador, Peru, and Venezuela. They bought a total of 114 Meteor jet fighters and Canberra jet bombers plus over 25 naval vessels including two aircraft carriers from 1950 to 1959.[19]

Since the threat of an extra-hemispheric attack on Latin America is minimal at present, as is the threat of attack by neighboring Latin American states upon each other, and the level of United States military aid appears to have little bearing on the matter, what factor is responsible for the large allotments for military expenditures in Latin American budgets? The blame appears to lie squarely on that bane of international cooperation, nationalism. One result of nationalistic rivalries, notes economist Harry G. Johnson, is "considerable diversion of economic resources from productive investment in economic development to consumption of the trappings and symbols of nationhood--a large and well-equipped army, an elaborate diplomatic bureaucracy, impressive public buildings and other constructional monuments to national pride."[20] This result is amply demonstrated in Latin American practice.

If we agree that the present Latin American military establishments are too large for their nations' needs, then in what

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18. Lieuwen, Arms and Politics, p. 205.
19. McArdle, "The Role of Military Assistance," p. 64.
20. Harry G. Johnson, The World Economy at the Crossroads (Montreal: Canadian Trade Committee, 1965), p. 46.

manner and to what extent should they be reduced--and how can we ensure that the funds released will be used for development purposes? The latter problem cannot be solved without establishing some form of supra-national authority. To solve the former problem, we must consider the present military needs of the Latin American nations. The threats of extra-hemispheric and inter-American attacks have already been discounted as minimal. The remaining threat--the primary one today--is the threat to internal security. "National liberation armies" using guerilla tactics--such as the FALN in Venezuela--appear to be the principal danger to the military security of the Latin American nations in the 1960's. If this is true, then we must ask: Are conventional armies and navies, equipped with tanks, cruisers, aircraft carriers and jet aircraft, the proper forces to combat the threat? Charles Wolf, Jr., studied the question of the best structuring of defense forces and budgets in underdeveloped countries in research conducted by the Rand Corporation in 1960-1961. The purpose of the study was to determine a budget and a militarily effective structure of forces which would yield improved economic and political side effects. For a given hypothetical budget, two alternative programs were drawn up--one for fairly large, conventionally trained and armed forces, and the other for smaller, more lightly armed forces. Much of the hypothetical dollar savings from use of the smaller forces was used to expand internal security forces, increase mobility, expand technical training, and to provide additional ground and air installations to facilitate effective intervention by free-world forces if necessary.

"War games," separately pitting each of the above hypothetical forces against an "enemy team," revealed some interesting results with definite implications for the situation in Latin America. The "war game" results in themselves failed to show the superiority of either program with respect to direct military results. The "side effect" analysis, however, indicated a clear advantage in the program using the smaller, more lightly armed forces. Operating costs for the armed forces were lowered, thereby theoretically releasing resources for development purposes; "social overhead" capital was increased; and a gain was made in the output of trained manpower.[21]

Thinking in the United States on military assistance for underdeveloped areas began to shift toward emphasis on the internal security problem as early as 1957. A study made that year by a special U.S. Senate committee noted that the condition of political and economic instability in underdeveloped countries was such that internal subversion was a primary threat.[22] The Draper Committee in its 1959 report further emphasized the need for assistance in the internal security area, and a new internal security aid program was put into effect upon passage of the 1961 Foreign Assistance Act. Counter-insurgency training programs for Latin American forces were established, and antiguerilla advisory teams were sent to provide on-site instruction to Latin American armies.[23] By 1964, the

21. Charles Wolf, Jr., "Defense and Development in Less Developed Countries," RAND Corp. Paper P-2291-1 (Santa Monica, California: The RAND Corporation, 1961), pp. 5-8.
22. U.S., Congress, Senate, Special Committee to Study the Foreign Aid Program, Study No. 10, The Military Assistance Program of the United States; two studies and a report prepared by a Special Civilian-Military Review Panel, 85th Cong.,1st sess. (Washington, 1957), p. 10.
23. Edwin Lieuwen, Generals vs. Presidents: Neomilitarism in Latin America (New York: Praeger, 1964), p. 124.

United States military assistance program--now with primary emphasis on internal security (52 per cent of the appropriated funds) and "civic action" (the use of military forces for public works-type projects in economic development--15 per cent) had been incorporated as an integral part of the Alliance for Progress.[24]

The fact that the United States gives priority to internal security in its military assistance programs does not, however, mean that the recipients give it similar priority. While internal subversion may be the primary threat to the security of Latin American countries today, there will be little change in the structure or budgets of the Latin American armed forces until the countries themselves perceive the changed situation. It is unlikely that large, conventionally armed and trained forces can be eliminated until each country is assured that the type of international dispute in which such forces have been used in the past will no longer occur. And such assurance can only be based on a belief in the overriding necessity for settling controversies peacefully and an impartial and effective mechanism for dispute settlement. The former condition may have to await the further development of Latin American integration; efforts toward the latter will be examined in the next chapter.

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24. U.S., Congress, House, Hearings, 1964, p. 93.

PART II

The Evolution of a Peaceful Settlement Mechanism for the Organization of American States

CHAPTER 6: INTER-AMERICAN EFFORTS FOR PEACEFUL SETTLEMENT

The American states have been seeking a satisfactory system for the peaceful settlement of their disputes for the last 140 years. The Congress of Panama of 1826, under the influence of Simon Bolivar, concluded a Treaty of Perpetual Union, League and Confederation. This treaty, which never came into force, would have created a general assembly one of whose objectives was "to endeavor to secure conciliation, or mediation, in all questions which may arise between the allied powers, or between any of them and one or more powers foreign to the confederation, whenever threatened of a rupture, or engaged in war because of grievances, serious injuries, or other complaints." (Article 13).[1] All differences between parties were to be submitted to the assembly for its friendly advice, and neither wars nor reprisals were to be undertaken before the general assembly's conciliation was requested (Articles 16 and 17).[2]

After the failure of the 1826 treaty, Latin American interest in collective action waned for the next 60 years. The only occasions of renewed interest in international cooperation during this period were in 1847, 1856, and 1865, when conferences were held to consider specific dangers threatening the independence of the Hispanic American nations. The sources of danger were: Spain and Ecuadorian ex-President, General Juan Jose Flores (1847), the United States (1856), and both France Spain (1865).[3] These conferences were concerned only with ex-

1. James Brown Scott, ed., The International Conferences of American States, 1889-1928 (New York: Oxford University Press, 1931), p. xxvii; Ann Van Wynen Thomas and A. J. Thomas, Jr., The Organization of American States, pp. 6-7.
2. Scott, International Conferences, p. xxvii; Thomas and Thomas, Organization, p. 7.
3. Thomas and Thomas, pp. 8-9.

ternal dangers, however, and throughout the 60-year period, the only peaceful settlement agreements concluded were effected on a bilateral basis. The number of bilateral treaties--both general in character and for specific disputes--grew until by 1928 they numbered over 250.[4] Eighty-four international arbitrations involving an American state took place during the nineteenth century; in forty-four of these only American states were parties.[5]

By the early 1880's the inter-American political climate was changing. The United States was entering a period of commercial expansion and had begun to look southward to Latin America. The unsettled international relations in that area, however, were hardly conducive to the initiation of new business ventures. Brazil, Argentina, Uruguay, and Paraguay had been involved in conflict from 1865 to 1870, and the War of the Pacific erupted between Chile and an alliance of Peru and Bolivia in 1879. U.S. Secretary of State James G. Blaine was anxious to bring the American states together to discuss arangements for both closer economic ties and arbitration of disputes, and issued invitations in 1881 for a conference in Washington the following year. Unfortunately, the assassination of President Garfield and the continuation of the War of the Pacific resulted in a recall of the invitations and postponement of the conference.[6]

Secretary Blaine's project languished until 1888 when Congress passed an act authorizing the President to arrange a con-

4. Charles Evans Hughes, Pan American Peace Plans (New York: Yale University Press, 1929), pp. 17-18.
5. Ibid., p. 18.
6. Thomas and Thomas, Organization, pp. 12-13.

ference in Washington and to invite the American States to attend.[7] The conference met from October 1, 1889, to April 18, 1890, with 18 of the 19 independent American Republics attending (the Dominican Republic was the only state missing).[8] Among the resolutions adopted by this First International Conference of American States was a Plan of Arbitration which was intended to be a model for an eventual treaty. The plan provided for the acceptance of arbitration as a principle of American international law for the settlement of disputes, and made arbitration obligatory in all controversies excepting those "which, in the judgment of any one of the nations involved in the controversy, may imperil its independence."[9] The plan was adopted but was signed by only nine delegations: Bolivia, Brazil, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, El Salvador, and the United States.[10] A treaty was drawn up and signed by all of the above states plus Uruguay and Venezuela on April 28, 1890. Failure of all of the signatories to exchange ratifications within the one-year time limit caused the treaty to lapse, however, and it never came into force.[11]

Although no treaty resulted from the 1890 arbitration plan, American interest in arbitration was not dampened. The United States and Mexico were signatories to the 1899 Hague Convention on the Pacific Settlement of disputes and ratified it in 1900 and 1901, respectively. The remaining American states, except for Costa Rica and Honduras, adhered to the 1899 Hague treaty in 1907.[12] At the 1907 Hague Conference, another Convention on

7. U.S., Statutes at Large, Vol.25 (1888), p. 155; Scott, International Conferences, pp. 3-4.
8. Ibid., pp. 9-10.
9. Ibid., p. 41.
10. Ibid., p. 43.
11. Ibid., p. 41.
12. James Brown Scott, The Hague Conventions and Declarations of 1899

Pacific Settlement was signed and, once again, Costa Rica and Honduras were the only American states which did not become parties.[13]

In the meantime, renewed efforts were being made to conclude an inter-American arbitration treaty. At the Second International Conference of American States in Mexico City, 1901-1902, a Treaty on Compulsory Arbitration was signed. "National honor" was added to independence of the nation as a criterion for making exception to the requirements of compulsory arbitration, but neither criterion was to be applicable in disputes "with regard to diplomatic privileges, boundaries, rights of navigation, and validity, construction and enforcement of treaties."[14] Only nine states signed this treaty and of these, only six ever ratified it.[15] In addition to this general arbitration treaty, treaties for the arbitration of pecuniary claims were adopted at the Second, Third, and Fourth Conferences (1902, 1906, and 1910). The greatest number of ratifications of these treaties was 12, for the 1906 treaty.[16]

After the 1902 compulsory arbitration treaty, no general instrument for the peaceful settlement of inter-American disputes was adopted until the Fifth International Conference of American States at Santiago in 1923, although President Wilson suggested a Pan American Treaty incorporating peaceful settlement procedures in 1916-1917. At the Santiago conference, a Treaty to Avoid or Prevent Conflicts between the American States

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13. Ibid., pp. 84-85.
14. Scott, International Conferences, p. 100.
15. The six were: El Salvador, Guatemala, Mexico, Peru, the Dominican Republic, and Uruguay. Pan American Union, Status of Inter-American Treaties and Conventions (Revised to September 1, 1963) (Washington: Pan American Union, 1963), p. 2.
16. Ibid., pp. 1, 3, 4.

was signed.[17] This treaty, the Gondra Treaty, provided for ad hoc commissions of inquiry which were to be established whenever a controversy arose which could not be settled by negotiation or arbitration. After being constituted, the commission was to have one year in which to complete its investigation and report to the parties. Upon receipt of the commission's report, the parties were to have six months in which to attempt a negotiated settlement, after which they were to regain full freedom of action in the matter.[18] Although the Gondra Treaty was eventually ratified by all of the American republics except Argentina, only nine had ratified it by the time of the Sixth Conference of American States at Havana. Therefore, although the conference desired to provide additional machinery for peaceful settlement, it was decided not to disturb the Gondra Treaty (which itself had required prolonged negotiation) but to build upon it as a foundation. The Havana Conference adopted a resolution recommending the speedy ratification of the Gondra Treaty and, at the same time, called for a Washington conference to adopt conventions on arbitration and conciliation.[19]

The International Conference of American States on Conciliation and Arbitration (December 10, 1928-January 5, 1929) concluded three new peaceful settlement instruments. The first was the General Convention of Inter-American Conciliation.[20] This treaty gave conciliatory functions to both the ad hoc commissions of inquiry of the Gondra Treaty and to the permanent

17. Text, Scott, International Conferences, pp. 285-289; discussion: Henry Myron Blackmer II, United States Policy and the Inter-American Peace System, 1889-1952 (Paris: University of Geneva, 1952), pp. 29-40.
18. Ibid., pp. 285-287.
19. Ibid., pp. 437-438; Hughes, Peace Plans, pp. 57-58.
20. Text, Scott, International Conferences, Appendix C, pp. 455-457;

Commissions which that treaty established in Washington and Montivideo for facilitating creation of the ad hoc commissions. The second new instrument was the General Treaty of Inter-American Arbitration.[21] The parties bound themselves to submit to arbitration all international disputes of a juridical character (Article 1) but excepted those within the domestic jurisdiction of a party and those which affected the interests of a non-party to the treaty. Because 13 of the 20 states which signed the treaty (Argentina did not attend the conference) attached reservations--primarily excepting existing disputes and requiring the exhaustion of local remedies in cases involving the claims of nationals--the conference adopted an additional Protocol of Progressive Arbitration.[22] This protocol provided that any party to the general arbitration treaty could rescind its reservations merely by depositing an appropriate document with the U.S. State Department, thereby making possible an increase in the scope of obligatory arbitration without requiring the negotiation of a new treaty.[23]

The ratification record of the above treaties indicates the degree to which the American states were then willing to bind themselves to peaceful settlement. The conciliation convention was the least binding and achieved the most ratifications--18. The arbitration treaty gained 16 ratifications, but restrictive reservations were still attached to 10 of them. The additional protocol was ratified by only ten states, but eight of these were among the ten which had made reservations

21. Text, Scott, International Conferences, Appendix C, pp. 458-461; discussion: Blackmer, United States Policy, pp. 43-45; Hughes, Peace Plans, pp. 34-37.
22. Text, Scott, International Conferences, Appendix C, p. 462.
23. Blackmer, United States Policy, p. 45.

in ratifying the arbitration treaty.[24] Unfortunately, none of the eight has ever made use of the protocol.[25]

One of the most serious drawbacks of the Gondra Treaty and the 1929 conciliation convention was the fact that they depended upon ad hoc bodies, the commissions of inquiry. This defect was corrected by the Additional Protocol to the General Convention of Inter-American Conciliation adopted by the 1933 Montivideo Conference. The protocol provided for the immediate naming of the members of the commissions of inquiry by bilateral exchanges of notes between signatories. It brought little improvement to the conciliation procedure, however, since members were named to only seven commissions and of these, only two (United States-Dominican Republic and Guatemala-Dominican Republic) were ever organized.[26]

In addition to the conciliation protocol, the 1933 conference adopted a recommendation that the American republics adhere to the Anti-War Treaty of Non-Aggression and Conciliation (Saavedra Lamas Pact) which Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay had signed on October 10, 1933. This treaty provided for a conciliation procedure independent of that set up by the 1929 convention. It was rendered largely ineffective, however, because it required that no conciliation commission be formed under its provisions if there existed a permanent conciliation commission or other international organization charged with that mission--and the permanent commissions provided by the conciliation protocol fulfilled the first

24. Pan American Union, Status, p. 12.
25. Blackmer, United States Policy, p. 45.
26. Ibid., pp. 41-42.

condition.[27]

The final three instruments of the pre-World War II inter-American peaceful settlement system were signed at the 1936 conference at Buenos Aires. They were: the Treaty on the Prevention of Controversies, the Inter-American Treaty on Good Offices and Mediation, and the Convention to Coordinate, Extend and Assure the Fulfillment of Existing Treaties between the American States. The first of these provided for the establishment of permanent mixed bilateral commissions to study the possible causes of future controversies and to propose measures for the application of the treaties already in force between the parties. The second provided for mediation of controversies between the parties by a prominent citizen of an American state. And the third did little more than to reaffirm the previous treaties.[28] The ratification record of the three 1936 treaties was little better than that of the previous ones: the first obtained 14 ratifications, the second 15, and the third 14.[29]

The "Inter-American Peace System" described above consisted, on the eve of World War II, of nine treaties, conventions and protocols--all calling for bilateral action between parties to a controversy. No attempt had been made to establish a single, community-wide procedure for peaceful settlement. A precedent for such an instrument existed, however, in the Central American Court of Justice of 1907-1917. This court was created by the five Central American republics (Guatemala, Honduras, Nica-

27. Ibid., p. 42; Pan American Union, Improvement and Coordination of Inter-American Peace Instruments, Vol. 1 (Washington: Pan American Union, n.d.), p. 2.
28. Blackmer, United States Policy, p. 46; Thomas and Thomas, Organization, pp. 279-280.
29. Pan American Union, Status, pp. 14-15.

ragua, Costa Rica, and El Salvador) after a series of controversies in the area resulted in a war between Honduras and an alliance of Nicaragua and El Salvador in 1907. Upon the suggestion of Presidents Roosevelt of the United States and Diaz of Mexico, hostilities were ended and a Central American Peace Conference met in Washington. A proposal by Honduras and Nicaragua for immediate union of the five states was opposed by the other three, and the conference went on to adopt nine separate instruments, one of which was a Convention Establishing the Central American Court of Justice.[30]

The Central American Court consisted of five justices, one appointed by the legislature of each state for terms of five years. Its jurisdiction included all controversies or questions between the states not settled by diplomacy; cases of an international nature between a government and a national of another state--providing that local remedies had been exhausted and a denial of justice was shown; any case between a government and an individual if by common agreement; international questions between a Central American state and a third state by special agreement; and, by an "optional clause" signed by all but Costa Rica, jurisdiction over certain conflicts between the legislative, executive, and judicial branches of a Central American government.[31]

During the ten year life of the convention which established it, the Central American Court considered ten cases. Five of these were brought by individuals and in all five, the

30. Jean Eyma, La Cour de Justice Centre-Americaine (Paris: Ernest Sagot, 1928), pp. 18-19; Manley O. Hudson, "The Central American Court of Justice," The American Journal of International Law (AJIL), Vol. 26 (1932), pp. 760-761.
31. Ibid., pp. 762-766.

plaintiff's case was declared to be inadmissible. In three cases, the court intervened on its own initiative in revolutionary situations--once, with apparent success in preventing the 1908 situation in Honduras from deteriorating into war, and twice without success in the 1910 and 1912 Nicaraguan revolutions.[32] The two cases which were to prove critical to the future of the court were brought in 1916 by Costa Rica and El Salvador, and charged Nicaragua with violating their rights by signing the Bryan-Chamorro Treaty with the United States in 1914. In both cases, Nicaragua claimed that the court lacked jurisdiction. The court, however, considered the cases and rendered decisions against Nicaragua which required that Nicaragua restore the status quo prior to the Bryan-Chamorro Treaty. Nicaragua thereupon refused to abide by the decisions.[33]

The 1907 convention which established the Central American Court expired on March 12, 1918, under the shadow of Nicaragua's adamant refusal to comply with the judgments against it, and all efforts to negotiate an extension of the convention were unsuccessful. An attempt to create a new peace instrument was made in 1923 at a Conference on Central American Affairs in Washington, but the resulting International Central American Tribunal was a weak, ad hoc organ which was never organized.[34]

The Inter-American Peace Committee was the second multilateral peaceful settlement agency within the inter-American system, established this time on a hemispheric rather than a regional basis. The Peace Committee's establishment, organization, and operations have been described in Chapters 1 and 2

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32. Ibid., pp. 768-771.
33. Ibid., pp. 773-777.
34. Ibid., pp. 781, 783.

of this paper. Further comment upon the Committee's operations and effectiveness will be made in the next chapter.

The Pact of Bogota is the most recent of the existing inter-American systems for peaceful settlement. It is the culmination of a process which began in the 1920's when the "system" of inter-American treaties on bilateral settlement procedures was developing. The 1929 conciliation and arbitration conventions were adopted after the decision had been made not to attempt a revision of the Gondra Treaty to incorporate these procedures. These three treaties formed the basic inter-American peace machinery at that time. But improvements were still needed. The possible methods included adding to or modifying existing treaties, concluding new treaties incorporating new procedures, or coordinating all procedures in a single instrument.[35] The method initially adopted was that of adding new peace instruments to the system rather than correcting or codifying the existing ones. In 1933, however, Mexico submitted a draft Code of Peace which had as its object the coordination of the various methods of promoting peace into one instrument. It contained general principles of international conduct, a definition of the aggressor, procedures for the investigation, conciliation, and arbitration of disputes, and a statute for a Permanent Inter-American Court of International Justice. The conference referred the Peace Code to the Pan American Union for submission to the member governments.[36]

The 1936 conference at Buenos Aires received proposals for additional protocols or new peace instruments from six states.

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35. Pan American Union, Improvement and Coordination, p. 1.
36. Ibid., pp. 2-3.

As previously noted, three of these were adopted. Mexico presented a revised Peace Code which was referred to a committee of experts for study and inclusion "among the works which shall be taken into account when presenting a project on the coordination of American Peace Instruments at the next conference at Lima."[37]

At Lima in 1938, however, no project on coordination of peace instruments was presented. The revised Mexican Peace Code of 1936 was resubmitted, and proposals for revising the existing treaties were submitted by Ecuador, Mexico, Uruguay, Venezuela, and the Committee of Experts on the Codification of International Law.[38] The Lima Conference again postponed a decision on the question of organizing the inter-American peace instruments, to the Bogota Conference scheduled for 1943. The Lima Conference took one step, however, which was to prove highly significant to the success of the efforts to organize the peace system. This step was embodied in Resolution XV entitled "Perfection and Coordination of Inter-American Peace Instruments." This resolution recognized the necessity for coordinating the various juridical measures for peaceful settlement into one organized treaty. It provided:

> That the Mexican project of a Peace Code, together with the ante-project of the Committee of Experts, the project of the United States of America on the Consolidation of American Peace Instruments . . . be referred to the Pan American Union in order that the latter institution may classify and transmit them to each one of the American Governments, requesting their opinions and proposals . . . .[39]

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37. Ibid., p. 6.
38. Ibid., pp. 9-10.
39. Eighth International Conference of American States, Final Act (Lima, Peru: Torres Aguirre, 1938), pp. 33-34.

Replies were to be sent to the Pan American Union which was to transmit them to the International Conference of American Jurists "which will undertake the definitive work of the Peace Code."[40]

The project of codifying the inter-American peace instruments languished throughout World War II. The Pan American Union completed the classification and publication of the various projects by 1943.[41] In 1945, the Inter-American Juridical Committee prepared a Draft of an Inter-American Peace System which was then circulated among the American governments for observations and comment. The draft was based upon the United Nations Charter pacific settlement procedures and distinguished between juridical and non-juridical disputes. Consultation was to be relied upon as the primary procedure, and arbitration was to be non-obligatory. The definitive project which the Juridical Committee submitted to the 1948 Bogota Conference differed considerably from the first draft. On the basis of Resolution X of the Rio Conference of 1947 which indicated majority support for such a move, consultation was eliminated as a procedure, and arbitration was made compulsory.[42]

When the Bogota Conference opened it had two conflicting views to consider on the requirement for obligatory submission of disputes for settlement. One view--that held by the Governing Board of the Pan American Union--was that while the submission of all legal disputes to judicial or arbitral settlement should be obligatory, the choice of the means of settling other

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40. Ibid., p. 34.
41. Pan American Union, Improvement and Coordination of Inter-American Peace Instruments, Vols. 1-3 (Washington: Pan American Union, 1943).
42. Blackmer, United States Policy, p. 179.

controversies should be left to the parties. The Juridical Committee, on the other hand, held the view that no dispute should be permitted to go unsettled, whether by acceptance of the results of non-binding procedures such as good offices, mediation, inquiry, or conciliation, or by binding judicial or arbitral procedures.[43] Neither of the above views fully prevailed in the final treaty, but the Juridical Committee's position carried the greater influence.[44]

The Pact of Bogota, or American Treaty on Pacific Settlement as it is formally called, is composed of eight chapters, entitled: General Obligation to Settle Disputes by Pacific Means, Procedures of Good Offices and Mediation, Procedure of Investigation and Conciliation, Judicial Procedure, Procedure of Arbitration, Fulfillment of Decisions, Advisory Opinions, and Final Provisions. The first five of these are of most importance insofar as the structure of the peaceful settlement system is concerned.

Chapter One of the Pact establishes a general obligation to settle all controversies by pacific means. Article II provides that in any controversy which cannot be settled by normal diplomacy, the parties are bound to use the procedures provided in the treaty "or, alternatively, such special procedures as, in their opinion, will permit them to arrive at a solution."[46] Article V provides an exclusion for matters within a state's domestic jurisdiction, but provides that any party can submit an assertion of domestic jurisdiction to the International Court

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43. John Lloyd Lecham, The United States and Inter-American Security, 1889-1960, p. 311.
44. Blackmer, United States Policy, p. 179.
45. Text, Annals of the OAS, Vol. 1, pp. 91-96.
46. Ibid., p. 91.

of Justice in case of disagreement. Articles VI and VII provided the primary grounds for several of the reservations made at the time of signing the treaty: Article VI precludes the application of treaty procedures to previously settled disputes, and Article VII obligates the parties to refrain from making diplomatic representations or referring a dispute to an international court in cases involving their nationals when the nationals have had available recourse to competent domestic courts.[47]

Chapter Two on Good Offices and Mediation provides for the utilization of American governments not parties to the dispute or of "eminent citizens" of any American state not a party to the dispute for either procedure. If mediation is used, both parties must agree to the choice of mediator or mediators.[48]

An attempt was made in Chapter Three on Investigation and Conciliation to make the obligation on the parties more binding than it was in previous treaties. The procedure is to be initiated through a request by one of the parties to the OAS Council for the convocation of a Commission of Investigation and Conciliation. Provision is made for the advance appointment of these bilateral bodies so that they may function as permanent commissions.; there is no obligation to do so, however, and the commissions may be appointed ad hoc as the occasion arises. When a request is made to the Council, the parties are to suspend the controversy and to cooperate with the Commission. The Commission of Investigation and Conciliation is to attempt to clarify the points in dispute and to bring about a

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47. Ibid.
48. Ibid., pp. 91-92.

mutually acceptable agreement. The reports and conclusions of the Commission have the character of recommendations only and have no binding power.[49]

The judicial procedure provided by Chapter Four contains a recognition of the jurisdiction of the International Court of Justice as compulsory in all disputes of a juridical nature. Jurisdiction is also compulsory, however, in a case where conciliation has failed to bring a solution, no agreement is reached to arbitrate, and either of the parties takes the case to the Court. In case of dispute over jurisdiction, the Court is granted the power to decide the question. If the Court declines to take jurisdiction because the controversy falls within Articles V, VI, or VII of the Treaty (domestic jurisdiction, previously-settled disputes, or protection of nationals) the dispute is thereby ended, but if the Court declines for any other reason, the parties are obligated to arbitrate.[50]

Chapter Five contains the final procedure, that of arbitration. It provides that, in addition to the compulsory arbitra- provided under the judicial procedure, the parties may voluntarily submit to arbitration any disputes arising between them, whether or not they are juridical. The five arbiters are to be chosen in each case through a complex procedure involving selections by both parties and by the OAS Council from lists submitted by the parties.[51]

The above description of the peaceful settlement procedures incorporated in the Pact of Bogota shows how well the objective of the 1938 Lima Resolution XV was met. The various methods of

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49. Ibid., pp. 92-93.
50. Ibid., pp. 93-94.
51. Ibid., pp. 94-95.

peaceful settlement which had been scattered among nine different treaties, conventions, and protocols had, indeed, been coordinated in one organized treaty. But was this really a wise action in view of the ratification record of the nine treaties which the Pact of Bogota replaced? Figure 2 shows the record of previous ratifications and ratification with reservations.

FIGURE 2[52]

Ratifications of Pre-1948 Peace Instruments

Treaty	Rd & ARd	Rdr & ARdr
1. Gondra Treaty	18	2
2. General Conv. of Conciliation	17	1
3. General Treaty of Arbitration	6	10
4. Protocol of Progressive Arb'n	10	--
5. Add'l Protocol to Conciliation Conv.	8*	1
6. Anti-War Treaty (Saavedra-Lamas)	8	10
7. Prevention of Controversies	13	1
8. Good Offices and Mediation	14	1
9. Coordinate, Extend and Assure Fulfillment	10	4
Total	104	30
Total Possible (9 x 21)	189	

* One Accession Ratified But Not Deposited

Rd: Ratification Deposited
ARd: Accession, Ratification Deposited
Rdr: Ratification Deposited with Reservation
ARdr: Accession, Ratification Deposited with Reservation

It can be seen that only two of the treaties--the Gondra Treaty and General Convention of Inter-American Conciliation--achieved anything near unanimous ratification without reservation. The General Treaty of Inter-American Arbitration, the most restrictive of the treaties in terms of limiting the par-

52. Source: Pan American Union, Status, pp. 4-15.

ties' sovereign powers and upon which the Pact of Bogota's arbitration provisions were largely based, attained the worst record of ratifications without reservations. As previously noted, none of the ten states which ratified the Protocol of Progressive Arbitration ever made use of it to remove their reservations from the Arbitration Treaty (two of the states attaching reservations to the Arbitration Treaty never ratified the Protocol).

The record of ratification of five of the most influential states in the inter-American system is also instructive. Argentina had by far the worst record, signing only five of the nine treaties and ratifying only one. And that one--the Anti-War Treaty originated by her own foreign minister, Carlos Saavedra Lamas--was ratified with a reservation! Brazil ratified five of the treaties without reservation and one with reservation; Chile: six without and three with; the United States: five without and three with; and Mexico had the best record with eight of the nine ratified without reservation and only one (the Arbitration Treaty) with reservation.

In view of the meager record of unreserved ratifications of the nine instruments which were combined in the Pact of Bogota (104 out of a possible 189--less than 3/5), the number of reservations and record of ratification of the latter is hardly surprising. Reservations were attached to the Pact of Bogota at the time of signing by seven states: Argentina, Bolivia, Ecuador, United States, Paraguay, Peru, and Nicaragua.[53] The reservations covered, variously: Article V, on domestic jurisdiction; Article VI, concerning non-applicability of the proced-

53. Text of reservations: Annals of the OAS, Vol. 1, pp. 96-98.

ures to previously-settled disputes; Article VII, concerning the protection of nationals; and Chapters Four (Judicial Procedure), Five (Procedure of Arbitration), and Six (Fulfillment of Decisions), in whole or part. Argentina, the worst offender with respect to ratification of the previous treaties, was the most sweeping in its reservations to this one. The Argentine reservations covered Article VII and all of Chapters Four, Five and Six. Argentina objected that arbitration and the judicial procedure should apply only in future controversies and not in cases arising from "causes, situations or facts existing before the signing of this instrument."[54] Argentina also objected to the limitation of Article V on self-judgment by states of the question of domestic jurisdiction.

The reservations of Bolivia, Ecuador, and Nicaragua all pertained to the provisions of Article VI, and all can be traced directly to border settlements which these states desired to reopen--Bolivia with Chile, Ecuador with Peru, and Nicaragua with Honduras. Nicaragua ratified the Pact with this reservation attached, but since the 1906 arbitral award of the King of Spain was confirmed by the International Court of Justice in 1960 and the decision carried out in 1961 with the aid of the Peace Committee, it may be presumed that the reservation no longer carries any weight.[55]

United States reservations included a disclaimer of intent to submit disputes to the International Court of Justice which are outside its jurisdiction, a requirement for a special agreement for the submission of any U.S. dispute to arbitration, a

54. Ibid., p. 97.
55. Ibid., pp. 97-98.

limitation on U.S. acceptance of compulsory International Court jurisdiction, and a refusal to accept Article VII on the diplomatic protection of nationals. The reservations on submission to arbitration and to the International Court virtually nullify the compulsory features of Chapters Four and Five as far as the United States is concerned.[56]

Paraguay's reservation was similar to the first U.S. reservation in requiring prior agreement of the parties to arbitration. Peru objected to International Court determination of the domestic jurisdiction question, and to the Court's determination of its own jurisdiction over controversies brought before it under the judicial procedure. Peru further objected to the possibility under Article XLV of setting up an arbitration tribunal without the participation of one of the parties and claimed a right to request a meeting of the Organ of Consultation before resorting to compulsory arbitration under Article XXXV.[57] A common thread seems to run through all of the Peruvian reservations--the determination to close any loophole through which Ecuador could force a reopening of the 1942 settlement of its border with Peru.

The pace of ratification of the Pact of Bogota reflects the serious difficulty caused by the attempt to incorporate so many restrictions to national sovereignty into one instrument. After a spurt of eight ratifications in a two-and-a-half year period from November, 1948, to April, 1951, a further four years was required for the ninth ratification and ten more years for the tenth. Countries and dates of ratification are shown in Figure 3.

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56. Ibid., p. 97.
57. Ibid.

FIGURE 3[58]

Ratifications of the Pact of Bogota

Country	Date Ratification Deposited
Costa Rica	May 6, 1949
El Salvador	September 11, 1950
Haiti	March 28, 1951
Honduras	February 7, 1950
Mexico	November 23, 1948
Nicaragua	July 26, 1950
Panama	April 25, 1951
Dominican Republic	September 12, 1950
Uruguay	September 1. 1955
Brazil	November 16, 1965

In addition to the difficulties arising from the reservations to the Pact of Bogota and the limited number of ratifications (the Pact being in effect only between those states having ratified it), the Pact contains a serious loophole which could render it largely ineffective even if all states were to ratify it without reservation. This loophole consists of the provisions of Article XXXII which provides that the path to compulsory adjudication or arbitration on the request of only one of the parties is dependent on two conditions: 1)that conciliation has been attempted and has failed to produce a solution, and 2)that the parties have not agreed to arbitration. The key to the blocking of the compulsory procedures lies in the conciliation procedure, and specifically, in the provisions of Article II of the Pact. Article II provides that the . . .

58. Data obtained from: The Department of State Bulletin, April 23, 1951, and Division of Document Services, Pan American Union (confirmed by Department of Legal Affairs).

parties are bound to resort to the procedures of the treaty only when "in the opinion of the parties" the dispute cannot be settled by normal diplomacy.[59] If, therefore, one of the parties refuses to agree that the dispute cannot be settled by normal diplomatic means, it can block access to the conciliation procedure; and by doing so, it can block access to both compulsory International Court jurisdiction and compulsory arbitration.[60]

The difficulties in achieving acceptance of the Pact of Bogota seem to spring directly from the decision of the Bogota conference to proceed with the most comprehensive document possible. Had the advice of the Governing Board of the Pan American Union been followed, a more acceptable pact would probably have resulted. By providing a means for compulsory settlement of non-juridical disputes, the conference fell into the trap so ably portrayed by William Manger in describing the failure of the OAS to achieve a comprehensive, acceptable treaty of peaceful settlement:

> The failure not only emphasizes the difficulty of the problem, but the attempts that have been made reflect the tendency that frequently marks the action of Pan American assemblies of trying to go too far too fast. Conference delegates, in the enthusiasm of the moment, incorporate into agreements provisions which the governments later are unwilling to accept, with the result that treaties remain unratified. From the moment of signature at Bogota in 1948, and considering the number of reservations attached to the treaty at that time, it was a foregone conclusion that this would be the fate of the Pact of Bogota.[61]

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59. Annals of the OAS, Vol. 1, p. 91.
60. Blackmer, United States Policy, p. 185.
61. William Manger, Pan America in Crisis: the Future of the OAS, p. 51

CHAPTER 7: PEACE COMMITTEE OR PACT OF BOGOTA?

By the adoption of the Pact of Bogota, the 1948 Conference intended to provide the American states with a unified peace instrument which would include all of the available procedures for settling international disputes. The provisions of Article LVIII, listing the treaties superseded, rendered ineffective for the ratifying parties those instruments which the Pact replaced.[1] The Inter-American Peace Committee was not listed under Article LVIII; therefore, it was not affected by the Pact and, through use and experience, developed into a procedure competing with the procedures of the Pact. While the Pact of Bogota does not exclude the possibility of using other peaceful settlement procedures, it does indicate a preference for those which it provides. Article II stipulates that, in case of a dispute which "cannot be settled by direct negotiations through the usual diplomatic channels, the parties bind themselves to use the procedures established in the present Treaty . . . or, alternatively, such special procedures as, in their opinion, will permit them to arrive at a solution."[2] The "or, alternatively" phrase justifies the continued existence of the Peace Committee even if all OAS member states ratify the Pact. The Committee provides, at the very least, a procedure which can be applied more rapidly than can those of the Pact of Bogota. And the ability to apply a settlement procedure with despatch can be critical in many rapidly-developing international situations. The inter-American Peace System has

1. Annals of the Organization of American States, Vol. 1, p. 96.
2. Ibid., p. 91.

thus developed since 1948 into two separate and competing procedures--the Pact of Bogota and the Inter-American Peace Committee.

The Inter-American Peace Committee has achieved by far the greater acceptability of the two procedures. This can be seen not only in the slow pace of ratification of the Pact, but in the variety of circumstances under which the Peace Committee's services have been requested, and the flexibility with which it has acted. Indeed, the speed and flexibility of the Committee in reacting to the different situations presented to it has probably been its most valuable asset.

The circumstances under which the Inter-American Peace Committee considered its first seven cases--under the 1948 Bases of Action and 1950 Statutes--were ones of extreme political tension in the Caribbean area. There was little likelihood of achieving the agreement between parties envisioned in Article II of the Pact of Bogota. Such agreement, if it were obtained, would (assuming both parties had ratified the Pact) have led directly into a series of procedures which could result in the compulsory adjudication or arbitration of highly political matters. Since, in most cases, neither party was desirous of such a result, only two possibilities were left to resolve the disputes through inter-American procedures--the Inter-American Peace Committee and the Rio Treaty. The Rio Treaty permitted fast and effective action through the OAS Council and the Organ of Consultation, action which could take the form of binding sanctions if necessary. The first use of the Rio Treaty, by Costa Rica against Nicaragua in December, 1948, had proven the rapidity and effectiveness of action by the Council acting as

Provisional Organ of Consultation. The second invocation of the Rio Treaty, by Haiti against the Dominican Republic in February, 1949, obtained an entirely different reception. In contrast to the Costa Rican charge of armed invasion, Haiti charged only "moral aggression" by means of radio propaganda attacks. The Council found that this did not come within the provisions of the Rio Treaty and refused to convoke the Organ of Consultation, since Haiti's territory, sovereignty, or political independence were not affected. The parties were advised to settle the dispute peacefully through existing treaties, whereupon Haiti requested the services of the Peace Committee.[3]

The reception accorded Haiti's attempt to use the Rio Treaty put the use of this part of the OAS machinery in an entirely new perspective. The Council had acted quickly and effectively on Costa Rica's charge against the dictator Somoza's Nicaragua. Perhaps Haiti felt that her request, being directed against a similar tyrant, Trujillo, would receive similar action and possibly a condemnation of Trujillo by the Organ of Consultation. Indeed, in view of the recent overthrow of several dictators in the area (Cuba, Guatemala, Venezuela, and Costa Rica) and the strength of feeling against the remaining ones, this was not an unreasonable expectation. The rejection of Haiti's request by the Council dealt a serious blow to her case, and instead of a denunciation of Trujillo, Haiti obtained--as a result of Peace Committee action--only a joint declaration of both countries' good intentions.[4]

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3. Supra, Part I, p. 28.
4. Supra, pp. 28-29.

The lesson of Haiti's experience was not lost on the Dominican Republic when, in July, 1949, that government decided to go to the OAS Council after the abortive invasion attempt by exiles and suspected Caribbean Legion elements at Puerto Plata and Luperon. The Dominicans first sought to determine the positions of the other OAS governments before raising the issue. As Argentine Ambassador Enrique V. Corominas, acting President of the Peace Committee at that time notes:

> . . . no state wanted to convene the Consultative Meeting, and the Dominican Republic least of all, unless it was reasonably sure of the success of the eventual meeting and its resolutions. To convene the Consultative Body, through the initiative of any State, for the solution of a serious problem as specified in the Treaty, and to fail to get an affirmative pronouncement, would have served only to strengthen the seditious groups . . . and to weaken the Governmental position of the affected State.[5]

Although the Dominicans felt that they could obtain enough support to convene the Organ of Consultation, the United States considered that the Peace Committee would be a better forum for discussion of the situation. U.S. Ambassador Paul C. Daniels said that if the Peace Committee failed to resolve the conflict, it would still be possible to resort to the Rio Treaty procedure.[6] This, indeed, was essentially what happened as a result of the late 1949 recurrence of the dispute between Haiti and the Dominican Republic. The Rio Treaty was invoked by both Haiti and the Dominican Republic, and the Council then acceded to the requests.

The above cases serve to illustrate the flexibility and

5. Enrique V. Corominas, In the Caribbean Political Areas, p. 51.
6. Ibid., p. 52.

adaptability of the Peace Committee and some of the factors leading to its acceptance as a useful procedure when a dispute or situation is not yet serious enough to warrant resort to the Rio Treaty. Such circumstances, however, were not the only ones which led to a request for the Peace Committee's services. The Peace Committee's cases have been described and compared in Chapter 2 of Part One, but no attempt was made at that time to compare the causes for resort to the Peace Committee.[7] In order to determine whether some pattern can be found in these situations, Figure 4 lists for comparison the various Peace Committee cases, the "triggering situation" which led to the request, Committee action, and the solution adopted. (See next page.)

Figure 4 indicates that there is no real pattern in the specific situations which "triggered" the requests for Peace Committee action. In fact, except for the single instances of aid to terrorists (part of Peru's charge against Cuba in 1961) and riots (Panama Canal Zone, 1964) the instances of each "triggering situation" have been fairly evenly distributed. Nevertheless, there is a pattern which can be seen in the Peace Committee's cases. The pattern relates to the general, rather than the specific, causes for resort to the Peace Committee and to the powers of the Committee to act without the consent of both parties. A general situation of political turmoil in the Caribbean area formed the background of the first seven and the last six of the Committee cases listed. At the same time, the Peace Committee had the power, under its 1948 Bases of Action, 1950 Statutes, and Resolution IV of 1959, to consider a case without the consent of both parties. The coincidence of these

7. Supra, pp. 24-61; comparison, pp. 55-61.

FIGURE 4

Situations Triggering Peace Committee Action

Triggering Situations:

A. Activity by exiles or subversive groups in neighboring state
B. Subversive propaganda
C. Neighbor's activities threatening aggression
D. Invasion by exiles
E. Aid to terrorists
F. Riot
G. Diplomatic incident
h. Other

Case	Triggering Situation	Committee Action	Solution
Dom. Rep.-Cuba, 1948	A	Conciliation	Resort to Direct Negotiation
Haiti-Dom. Rep., 1949	B	Conciliation-Investigation	Joint Declaration Of Intention
Cuba-Peru, 1949	G	None	Problem Removed
Caribbean Situation, 1949	A,B,C,D	Study of Information	Conclusions Calling Attention to Basic Principles
Dom. Rep.-Cuba, 1949	A	None	Cuban Denial Accepted
Dom. Rep., 1949	H (Trujillo War Powers)	Letter to Ambassador	None Direct--Powers Later Repealed
Cuba-Dom. Rep.,1951	H (Siezure of Cubans)	Conciliation	Joint Declaration Of Intentions
Colombia-Peru,1953	G	Study of Information	None--Peru Refused to Cooperate, Conclusion Recommending Direct Negotiation
Guatemala-Honduras-Nicaragua, 1954	D	Investigation By Subcommittee	Termination of Action By Request of Parties
Cuba-Dom. Rep., 1956	C	Conciliation	Agreement to Negotiate
Nicaragua-Honduras, 1961	G	Conciliation-Investigation	Mixed Commission to Supervise Boundary Marking
Panama-U.S., 1964	F	Conciliation-Investigation	None--Case Taken to Council Under Rio Treaty
Haiti-Cuba, 1959	D	Investigation By Subcommittee	None--No Formal Accusation, No Recurrence Of Problem
Venezuela-Leaflet Drop, 1959	B	Investigation By Committee	None--Dominican Authorities Implicat

Case	Triggering Situation	Committee Action	Solution
Ecuador-Dom. Rep., 1960	G	Study, Report	None--Dom.Rep. Refuse To Cooperate; Report To Council
Venezuela-Dom. Rep., 1960	H (Human Rights Violations)	Study of Information	None--Dom.Rep. Refuse To Cooperate; Report To Council
Guatemala-Mexico, 1961	A,C	Study of Information	Accusation Withdrawn, No Need for Committee Action
Peru-Cuba, 1961	B,E,G,H (Human Rights Violations)	Study of Information	None--Cuba Refused To Cooperate; Report To Council

two factors--the general situation and the ability to unilaterally resort to the Committee--is undoubtedly the cause for the profusion of cases in the years 1948-1951 and 1959-1961. When the Caribbean tensions eased after 1951, resort to the Peace Committee also declined. And when tensions flared again in 1959, it became necessary to widen the Peace Committee's powers to make resort to the Committee practical. It would appear that any future increase in the incidence of Peace Committee cases would depend on similar circumstances. It will certainly take a serious general situation to obtain the approval of the foreign ministers or an Inter-American Conference for another broadening of the Peace Committee's powers.

Although the Peace Committee was the primary inter-American dispute-settlement mechanism during the period 1948-1965, some use was made of the Pact of Bogota. Resort to the Pact was limited primarily by the lack of ratifications. A comparison of Figures 3 and 4 shows that nine Peace Committee cases (Figure 4, Nos. 7,9,10,11,12,13,15,16,17) involved states which had ratified the Pact of Bogota, but in only <u>one</u> of the nine (Nicaragua-Honduras, 1961) were all parties to the controversy bound by the Pact. And in that case, since the controversy was only a technical one (application of the arbitral award of 1906), the Peace Committee undoubtedly offered the most expeditious method of settlement.

The two occasions on which the Pact of Bogota was invoked were discussed in Chapter 3.[8] Costa Rica's lack of success in obtaining the convocation of a Commission of Investigation and Conciliation in the first instance can be attributed to her

8. <u>Supra</u>, p. 70.

failure to fulfill the requirement of Article II of the Pact that both parties must agree that the matter cannot be settled by direct negotiations. On the second occasion, when the Council was meeting as the Provisional Organ of Consultation in response to Costa Rica's charge of invasion from Nicaragua, the Pact was not invoked directly, but its use was part of the solution recommended by the Council's investigating committee. In addition to taking measures for better control of their frontiers against illegal exile activities and arms traffic, the Council advised both countries to create a Commission of Investigation and Conciliation under the Pact of Bogota to ensure the settlement of future difficulties.[9]

Most of the activity concerning the Pact of Bogota since 1948 has consisted of attempts to revise it and exhortations for its ratification. Actually, only one serious attempt has been made to revise and "rejuvenate" the Pact. This occurred in 1954 when an item on the possibility of revising the Pact of Bogota was placed on the agenda of the Tenth Inter-American Conference at Caracas. Unfortunately, little time was spent on this item because of the concentration of the Conference on Communism, European colonies, and asylum.[10] A compromise was reached which called for the member states either to ratify the Pact or to submit statements of their reasons for desiring amendments. Ecuador made its attitude known immediately by attaching a statement to the Final Act which reaffirmed its opposition to Article VI of the Pact and its position that "all matters affecting the vital interests of a state should be subject to the

9. Ann Van Wynen Thomas and A. J. Thomas, Jr., The Organization of American States, pp. 313-314.
10. U.S., Department of State, Tenth Inter-American Conference, Caracas, Venezuela, March 1-28, 1954, Report of the Delegation of the United States of America with related Documents, pp. 12-13.

procedures of the Pact.[11] The Committee on Juridical-Political Matters of the OAS Council was assigned to collect and report on the observations submitted. Twelve governments replied to the request for views. The United States' reply concluded that considerable re-drafting would be needed to make the treaty generally acceptable, but the Committee reported on March 6, 1957, that the majority of the 12 governments did not favor revision of the Pact. The Council thereupon declared the inquiry on non-ratification and revision to be concluded.[12]

Since 1954, only two additional states have ratified the Pact of Bogota--Uruguay in 1955 and Brazil in 1965. No further proposals have been made for revision of the Pact. Brazil's ratification was deposited in the Pan American Union the day before the Second Special Inter-American Conference opened, and undoubtedly in recognition of this fact, the Conference adopted, as Resolution XV, an "appeal to those Governments that have not Ratified the Pact of Bogota." The resolution noted that "it would be advisable for all member states of the Organization to be bound by the terms of the Pact of Bogota" and appealed to those governments which had not yet done so to ratify the Pact as soon as possible.[13] Since this resolution was adopted and there is no evidence of a proposal to revise the Pact, it may be assumed that efforts to "rejuvenate" the Pact of Bogota have ended for the present. Progress in obtaining future ratifications is likely to continue slowly, if at all. The remaining eleven states which have not ratified the Pact include six of the seven which attached reservations at the time of signing.

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11. Ibid., pp. 171-172.
12. Charles G. Fenwich, The Organization of American States; the inter-American regional system (Washington: Fenwick, 1963), pp. 192-193.
13. OAS, Second Special Inter-American Conference, Final Act, pp. 27-28

(Of the seven, only Nicaragua has ratified the Pact, and it did so with reservation.) The five remaining states which signed the Pact without reservation were Colombia, Cuba, Chile, Guatemala, and Venezuela.[14] Even if these five were to ratify the Pact, it seems unlikely that the other six will do so without including their present reservations. Therefore, it would appear that the Pact of Bogota is destined to achieve no greater degree of success than the treaties which it was intended to replace.

Although the question of the Peace Committee's status within the Organization of American States was the reason for including it on the agenda at the 1954 Caracas Conference, it is a curious fact that none of the proposed revisions of the Peace Committee's Statutes have ever proposed the formal incorporation of the Committee into the OAS structure by means of Charter amendment. Each of them--including the most recent amendment proposed by the Committee itself in 1965--merely referred to Resolution XIV of 1940 as the legal basis for the Committee's existence.[15]

The proposals of Ecuador and Brazil in 1965 would put the OAS peaceful settlement mechanism on a formal treaty basis. The Inter-American Council on Peaceful Settlement, proposed by Ecuador, and the Inter-American Peace Council, proposed by Brazil, would both make the peaceful settlement agency a major organ of the OAS. Similarly, the Charter Amendments proposed by the Special Committee at Panama in 1966 would incorporate

14. Pan American Union, Status of Inter-American Treaties and Conventions, p. 8.
15. OAS, Second Special Inter-American Conference, Report of the Inter-American Peace Committee on the Amendment of its Statutes, Submitted to the Second Special Inter-American Conference, p. 1.

the peaceful settlement of disputes into the responsibilities of the OAS Council.

What are the prospects of adoption of the above proposals, and how effective will any one of them be as a peaceful settlement mechanism if adopted? The Charter Amendments proposed at Panama undoubtedly have the inside track insofar as prospects of adoption are concerned. As noted in Chapter 4, the vote of the subcommittee which approved the proposals was 12-2-4.[16] This degree of support makes it very likely that the amendments will be accepted at the amendment conference. The question of the effectiveness of the three proposed peaceful settlement mechanisms is another matter. Both the Brazilian draft treaty and the proposed Charter amendments require that both parties to a dispute agree to the OAS organ taking cognizance. The Ecuadorian draft treaty, on the other hand, incorporates the essential features of its proposals amending the Peace Committee Statutes. It would permit the proposed Council of Peaceful Settlement to act on its own initiative or at the request of only one of the parties, in addition to acting on the request of both parties.

Thus, the three current proposals for making the peaceful settlement mechanism a major OAS organ come down basically to the dichotomy between the requirement for consent by both parties or by one only. This dichotomy has provided the primary divisive issue in obtaining support for the Peace Committee ever since Peru made its initial reservation to Resolution XIV in 1940. And from 1956 on, the majority of the OAS member states have, with one exception, been consistently in favor of requir-

16. Supra, p. 102.

ing the consent of both parties for the OAS organ to act. That exception, of course, was Resolution IV of 1959 which temporarily broadened the Committee's powers for the specific duties assigned regarding the Caribbean situation. It is unlikely that another such exception will occur, and even if one does, any broadening of the powers of the peaceful settlement agency would probably again be temporary. A permanent and effective mechanism can hardly be built on temporary grants of power. Therefore, it seems likely that there will be no greater degree of success or frequency of use in the new settlement mechanism, even if it gains the added prestige of being a major OAS organ.

CHAPTER 8: CONCLUSION: PROSPECTS FOR THE OAS

The Organization of American States has reached a critical stage in its development. The forthcoming conference on the amendment of the OAS Charter will probably prove to be the turning point in determining whether the OAS can function effectively in guiding and encouraging the development of a viable inter-American community. A requirement for the creation of such a community is the existence of a mechanism for settling disputes among its members. In the previous chapters of this paper, we have outlined and discussed the efforts made to date by the American States to achieve such a dispute settlement system and the experience they have gained in applying the procedures thus far developed.

The method most frequently used to establish inter-American peaceful settlement machinery has been the treaty. The first attempts were unsuccessful--notably those of Simon Bolivar in 1826 and the arbitration treaty of 1890. Then, following the piecemeal adoption of several procedures by separate treaties in the 1920's and 1930's, the effort to coordinate them in one instrument was crowned with success in the Pact of Bogota. But all of the treaty-adopted settlement mechanisms have been bilateral. The treaties have set up standard procedures for the American states to follow in resolving their controversies, but the actual settlement of a particular dispute has been left primarily to the parties themselves. The selection of arbiters from inter-American panels and the use of the International Court of Justice brings non-nationals into the settlement of disputes, but the persons involved function as individuals

rather than as representatives of states.

The Inter-American Peace Committee has been the only multilateral peaceful settlement mechanism adopted by the American states. Its establishment, however, came at a time of great external danger to the Western Hemisphere, when the prevention of disunity was of the utmost importance. Furthermore, it was created not as the result of a treaty subject to the process of ratification, but by a non-binding resolution of a foreign ministers' meeting. The subsequent evolution of the Peace Committee and the history of its activities suggests that the American states did not intend in 1940 to create a multilateral mechanism with the wide powers which the Committee initially assumed. In fact, when the members of the OAS gained their first opportunity to pass judgment on the Peace Committee's Statutes in 1956, they acted to restrict the Committee's powers to the extent that the frequency of resort to the Committee was severely reduced. Although the Committee was still a multilateral body for peaceful settlement, resort to it now required the bilateral approval of the disputants, and the Committee could no longer enter a dispute on its own initiative. Thus, bilateralism was introduced into the multilateral settlement mechanism, and no state could be called upon to submit its controversies for settlement involuntarily.

Although the American states have indicated a preference for bilateralism when establishing peaceful settlement mechanisms, the treaties they have signed have been generally ineffective. Only the Inter-American Peace Committee, an agency of multilateral conciliation, has been able to achieve any degree of success in the actual resolution of controversies. But most

of the Peace Committee's successes were achieved under operating rules which did not require the consent of all parties to the dispute for the Committee to take jurisdiction, and only two disputes were taken to it under the more restrictive 1956 rules. There is an obvious inconsistency between the solutions proposed by the American states to fulfill the need for a peaceful settlement mechanism and the degree of cooperation and agreement which they demonstrate when actually confronted by a dispute. The American states can agree on bilateral settlement mechanisms over the conference table and in the absence of a specific dispute. But the success of these procedures depends upon a cooperative attitude which is seldom achieved--either in ratification of the treaties creating them or in their application to a particular controversy. If the required amount of common interest actually existed, the disputes could in all likelihood be settled through negotiation.

What appears to be missing in the inter-American system is a strong sense of community--a feeling of the necessity for and the mutual benefits to be gained by placing the interests of the group ahead of those of the individual members. There seems to be little in the way of a spirit of compromise when issues arise involving national interests. This lack of community interest has been noted by two commentators on the inter-American scene, Jorge Castaneda and C. Neale Ronning. Castaneda, after examining the "essential norms" for political cooperation, concludes that

> those principles which are most important in the continent have not yet, because of their nature or because of other circumstances, formed bonds of solidarity sufficiently strong to create

> a political Pan American community . . . . The lack of continental political solidarity has been at the same time cause and effect of the absence of a true Pan American spirit. What has living reality in the conscience of Latin American peoples is the feeling and the bonds of Latin Americanism. Pan Americanism, on the other hand, has existed almost behind the back of public opinion both in the Latin American countries and the United States.[1]

Ronning, commenting on the Eighth Meeting of Consultation of Ministers of Foreign Affairs at Punta del Este, noted that the solutions to the problems besetting the Western Hemisphere require

> a level of community not yet achieved. None of these problems requires a higher level of community than does that of collective security, especially when collective action is called for against indirect agression . . . . How can governments be expected to run risks in the name of "community interests" until there is some consensus as to what those "community interests" are?[2]

Some writers, however, contend that an inter-American community does exist but that it involves a mixed concept including the acceptance of common standards of action, the recognition and observation of accepted rules, and the establishment and use of institutions and procedures "for the good of the community even when immediate national interests might be injured."[3] But is the acceptance of common standards, rules, and institutions enough? Definitely not, judging from the past experience of the American states both prior to and since the

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1. Jorge Castaneda, "Pan Americanism and Regionalism: A Mexican View," International Organization, Vol. 10 (1951), pp. 387-388.
2. C. Neale Ronning, Punta del Este: The Limits of Collective Security in a Troubled Hemisphere, Occasional Paper No. 3 (New York: Carnegie Endowment for International Peace, 1963), p. 30.
3. Ann van Wynen Thomas and A. J. Thomas, Jr., The Organization of American States, p. 406.

creation of the OAS. The nations of the Western Hemisphere have renounced the use of force in their mutual relations, signed numerous treaties pledging themselves to apply specific settlement procedures to their disputes, and established a regional international organization for the advancement of their common interests. But, in spite of all of these efforts, the American states have not yet achieved a real sense of community among themselves. Stanley Hoffman's comment concerning NATO in this regard is equally applicable to the inter-American system:

> Abstention from the use of force and the setting up of regional organizations are one thing; a consensus of long duration among states on the procedures for settling disputes and for carrying out various functions in common is quite another. Only if the latter is achieved does it become legitimate to talk of a community. . . .[4]

What are the prospects of developing a sense of community in the inter-American system and its application in the field of peaceful dispute settlement? The past record does not provide cause for undue optimism. Latin American countries have always harbored a strong sense of nationalism. This nationalism is a product of the relative isolation from each other which these countries experienced as Spanish colonies and of their long hard struggle for independence. For many years the Latin American countries existed, not as nations in the modern sense, but as feudal states. The elite maintained a domination of the masses which was dependent on the nonexistence of a nation

4. Stanley Hoffman, "Discord in Community: The North Atlantic Area as a Partial International System," The Atlantic Community: Progress and Prospects, Francis O. Wilcox and H. Field Haviland, Jr., eds. (New York: Praeger, 1963), p. 113.

and the absence of modern technology and development.[5] But the old isolation is breaking down, and a "new nationalism" is developing in Latin America as the social barriers within the national societies are broken. The disappearance of these barriers and the resultant development of communication between the various sectors of society give rise to "nationality" as Karl Deutsch uses the term.[6] As economic development and social change progress in Latin America, this "new nationalism" will undoubtedly spread and grow stronger. It has already reached the working classes who now provide its "most dynamic and aggressive expression."[7]

Latin American nationalism has already caused divisive effects of lasting influence in inter-American relations. The economic nationalism resulting largely from the depression of the 1930's has produced high tariff walls and many small-scale, inefficient import-substitution industries. In the political field, nationalism has developed what Arthur P. Whitaker calls "Latin America's matchless devotion to the rule of non-intervention in its most extreme form--most extreme in the double sense that it is absolute and that it is interpreted by Latin Americans to cover practically every kind of activity by a foreign nation that they find objectionable."[8]

The development of economic nationalism was noted by K. H. Silvert as an aspect of the intermediate level of national emer-

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5. Richard W. Patch, "Peasantry and National Revolution: Bolivia," Expectant Peoples: Nationalism and Development, K. H. Silvert, ed. (New York, Random House, 1963), p. 113.
6. Arthur P. Whitaker, "Nationalism and Social Change in Latin America," Politics of Change in Latin America, Joseph Maier and Richard W. Weatherhead, eds. (New York: Praeger, 1964), p. 91.
7. Ibid., pp. 96-97.
8. Ibid., p. 90.

gence. "The leaders of underdeveloped lands tend to see the state as the only agency of sufficient strength to mobilize large amounts of capital and to enforce the protectionism necessary for their growing industries."[9] The state has, in fact, been the agent to which most Latin American countries have turned to provide the resources and direction for their economic development. But the state has not been equal to the task in most cases. The limited markets in many countries have prevented the development of large-scale industries which can be competitive without the retention of high tariff barriers. Therefore, under the influence of Raul Prebisch and the school of economists he developed as Chairman of the Economic Commission for Latin America, a number of Latin American countries have turned to economic integration as the most efficient path to modernization and development.

Economic integration may be a key to the creation of a sense of community in Latin America. The theory of functionalism would have us believe that by developing and practicing cooperation in the economic areas, a degree of interdependence can be established which will "spill over" into the more political areas. But functionalism has not proven itself, and, indeed, there are serious challenges to the validity of the concept of "spill-over." Nevertheless, there are many who believe that it can be made to work in Latin America. The two existing organizations for economic integration, the Latin American Free Trade Association (LAFTA) and the Central American Common Market, have made notable progress. The latter includes only the

9. K. H. Silvert, "The Strategy of the Study of Nationalism," Expectant Peoples, p. 36.

five Central American states which have a tradition of unity dating from the colonial period. IAFTA, however, is a much broader group with little previous history of cooperation. Successful economic integration under its auspices could very well lead to significant developments in the political field.

Among the proposals for increasing the degree of political cooperation is the establishment of a Latin American Parliament composed of representatives of the area's parliaments. Such a Parliament would provide a forum for discussion of the problems of integration as they arise, and "a climate of opinion would thus be created which would be favourable to the political decisions needed to set the process in train and to maintain steady progress towards regional integration."[10] But whether or not Latin America is ready for political cooperation to this degree is questionable. The resolution on Parliamentary Cooperation (Resolution V) adopted by the Second Special Inter-American Conference in 1965 did not propose the establishment of such a Parliament, but merely directed the OAS Secretariat to obtain the member states' views on the ways in which parliamentary cooperation could contribute to the application of OAS principles and to strengthening the inter-American system.[11] The government of Haiti took exception to even this suggestion of cooperation, making a reservation which stated that "it feels that this document implies a form of political integration which is dangerous for the inter-American system."[12]

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10. Raul Prebisch, Jose Antonio Mayobre, Felipe Herrera, Carlos Sanz de Santamaria, "Proposals for the Creation of the Latin American Common Market," International Legal Materials, Vol.IV, No. 4 (July, 1965), p. 678.
11. OAS, Second Special Inter-American Conference, Final Act, pp. 19-20.
12. Ibid., p. 42.

Another possible path to political cooperation and agreement on a workable system for inter-American dispute settlement would be through the creation of a dispute settlement procedure for the economic integration process. Proposals have been made for the conciliation of integration disputes first by the LAFTA Executive Board and then, if no agreement were obtained, by an ad hoc conciliation committee "acting as a supreme court."[13] Although the idea of a conciliation body acting as a court may not be consistent, a successful dispute-settlement procedure on a multilateral basis in economic matters could be developed, perhaps even to the point where the creation of a regional court might be feasible.

While the growth of a sense of community and a degree of political integration may well occur through the functional process of economic integration, it will be a slow process at best. However, there is no certainty that political cooperation necessarily results from economic cooperation. Haiti is not a member of either of the organizations for economic integration, but her negative attitude toward political integration is by no means unique in Latin America.

The urgency of the political problems confronting the inter-American system may not, however, permit the luxury of waiting for the functional approach to bear the fruit of political integration. If not, perhaps there is a more direct method of resolving the problem of political cooperation. One such method has been suggested by Albert O. Hirschman in his book Journeys Toward Progress.[14] Hirschman's analysis of problem-

13. Prebisch, et al., "Proposals", p. 679.
14. Albert O. Hirschman, Journeys Toward Progress: Studies of Economic Policy-Making in Latin America (New York: The Twentieth Century Fund, 1963).

solving in Latin America revolves around the concept of Privileged (P) vs. Neglected (N) problems; that is, those problems which lend themselves to mass protest and pressure on the decision-makers vs. those which do not.[15] Hirschman defines three categories of problems which are selected for treatment by the Latin-American policy makers:

> (a) Problems which the problem victims are able to bring forcefully to the attention of the policy-makers;
> (b) Problems which the policy-makers are persuaded to tackle because they have become convinced that progress on them is in some sense prerequisite to progress on (a); and
> (c) Problems suggested by a widening of the spectrum of possible actions, that is, on which policy-makers wish to, and think they ought to, move primarily because new policy actions have become feasible or new policy instruments have become available; it will be hoped and claimed that the resultant progress on these problems will do much to alleviate problems (a).[16]

The creation of Brazil's new capital of Brasilia and the establishment of LAFTA are cited by Hirschman as examples of (b) or (c) problem solutions.[17]

The establishment of a dispute settlement mechanism for the OAS is undoubtedly a problem of the (b) or (c) variety. Disputes fall into the (a) category when they arise, but they are generally--except for the two attempts to probe the causes of unrest in the Caribbean--dealt with on an ad hoc basis. Type (b) or (c) solutions for the basic problems which cause disputes and agreement on acceptable machinery for their settlement may be possible within the inter-American system. Three such solutions suggest themselves as possibilities:

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15. Ibid., pp. 229-232.
16. Ibid., p. 234.
17. Ibid., p. 235.

(1) An arms reduction and limitation agreement within LAFTA or, if possible, within all of Latin America;

(2) In conjunction with (1), agreed reductions in defense budgets, the reductions to be used for economic or social development projects;

(3) Agreement on a peaceful settlement mechanism with enlarged powers to assume jurisdiction without the consent of both parties to a dispute. Achievement of agreement might be obtained by the application of specific limitations on the types of problems to be considered, possibly including the elimination of boundary disputes; the omission of any power to impose decisions unless a definite threat to the peace existed--in which case the matter could be referred to the Organ of Consultation; and the granting of competence to define the political and juridical issues involved in a dispute without necessarily granting power to require their settlement by any specific procedure.

The arms reduction and defense budget reduction possibilities would greatly enhance the development efforts of the Latin American countries. Such agreements might be worked out within the framework of the Alliance for Progress. Perhaps the offer by the United States of a guarantee for the defense of the continent against direct external aggression would facilitate such an agreement. It must not be forgotten, however, that Latin Americans still greatly fear the military power of the United States--particularly after the action of the United States in the 1965 Dominican crisis. Such a U.S. offer might well have to be accompanied by a firm guarantee against further unilateral U.S. military action under any circumstances.

The possibility of agreement on the third suggested solu-

tion appears slim at the present time. As noted in Chapter 4, the American states seem to be moving toward agreement on a Charter amendment giving the OAS Council powers similar to those presently exercised by the Inter-American Peace Committee, and imposing similar limitations with respect to consent of the parties. Nevertheless, it is still possible that the proposals may be modified before the amendment is adopted. If the suggested limitations on jurisdiction are advanced, and, at the same time, the dismal record of Peace Committee and Pact of Bogota activity under the requirement for mutual consent is emphasized, it may be possible to persuade a sufficient number of states to accept the change.

Whatever the ultimate form of the peaceful settlement mechanism devised for the OAS, and whatever the technique used to achieve agreement, a solution of the problem is not likely to come about quickly. Hasty solutions in the inter-American system have not been lasting ones. The American states have undergone a significant development in their mutual relations over the past 76 years, to a point where the interests which unite the nations far surpass those which divide them. But the progress which has been made has not come about easily, and future progress will be equally as difficult. The amendment proposed by the Special Committee in Panama in February-April, 1966, may be the only acceptable change to the peaceful settlement mechanism at the present time. Even though it retains the requirement for mutual consent of the parties to obtain action, the amendment, if adopted, will be a significant advance over the present machinery of the Inter-American Peace Committee. It will put the peaceful settlement of disputes on a much higher level of the

organization, and the dispute settlement agency will have a firm basis in the organization's constitutional instrument, the Charter. These factors should combine to increase the acceptability of CAS action in a dispute as well as to increase the moral pressure on both parties to accept CAS action after a request has been made by one of them.

The further development of peaceful settlement in the OAS beyond the procedure of the proposed amendment will depend largely upon experience with the Council's handling of disputes and the progress of Latin American integration. The divisive effects of nationalism must be overcome, and a supra-national sense of community must be developed before the CAS can achieve a really effective system for the peaceful solution of controversies.

BIBLIOGRAPHY

Agwani, Mahomed Shafi, "The Arab League: An Experiment in Regional Organization," India Quarterly, Vol. 9 (1953).

Annals of the Organization of American States, Vols. I (1949), II (1950), VI (1954), VII (1955), and VIII (1956) (Washington: Pan American Union).

Arnold, Guy, Towards Peace and a Multiracial Commonwealth (London: Chapman & Hall, Ltd, 1964).

Ball, M. Margaret, The Problem of Inter-American Organization (Stanford, California: Stanford University Press, 1944).

Blackmer, Henry Myron II, United States Policy and the Inter-American Peace System, 1889-1952 (Paris: University of Geneva, 1952).

Corominas, Enrique V., In the Caribbean Political Areas, L. Charles Foresti, trans. (Cambridge, Mass.: University Press, 1954).

de Onis, Juan, "U.S. Aim in O.A.S. Arouses Dissent," The New York Times, March 13, 1966.

Edelmann, Alexander T., Latin American Government and Politics (Homewood, Illinois: Dorsey Press, 1965).

Eighth International Conference of American States, Final Act (Lima, Peru: Torres Aguirre, 1938).

Elias, T. O., "The Charter of the Organization of African Unity," American Journal of International Law, Vol. 59 (1965).

Eyma, Jean, La Cour de Justice Centre-Americaine (Paris: Ernest Sagot, 1928).

Fenwick, Charles G., The Organization of American States; the inter-American regional system (Washington: Fenwick, 1963).

_____, "The Third Meeting of Ministers of Foreign Affairs at Rio de Janeiro," American Journal of International Law, Vol. 36 (1942).

Furniss, Edgar S., Jr., "The Inter-American System and Recent Caribbean Disputes," International Organization, Vol. IV (1950).

Gordon, Lincoln, A New Deal For Latin America: The Alliance for Progress (Cambridge, Mass.: Harvard University Press, 1963).

Hirschman, Albert O., Journeys Toward Progress: Studies of Economic Policy-making in Latin America (New York: The Twentieth Century Fund, 1963).

Hoffman, Stanley, "Discord in Community: The North Atlantic Area as a Partial International System," The Atlantic Community: Progress and Prospects, Francis O. Wilcox and H. Field Haviland, Jr., eds. (New York: Praeger, 1963).

Hudson, Manley O., "The Central American Court of Justice," The American Journal of International Law, Vol. 26 (1932).

Hughes, Charles Evans, Pan American Peace Plans (New Haven: Yale University Press, 1929).

Inter-American Development Bank, Social Progress Trust Fund, Fifth Annual Report, 1965 (Washington: Inter-American Development Bank, 1966).

International Legal Materials, Vol. V, No. 1, (January, 1966).

Ireland, Gordon, Boundaries, Possessions, and Conflicts in South America (Cambridge, Mass.: Harvard University Press, 1938).

_____, Boundaries, Possessions and Conflicts in Central and North America and the Caribbean (Cambridge, Mass. : Harvard University Press, 1941).

Johnson, Harry G., The World Economy at the Crossroads (Montreal: Canadian Trade Committee, 1965).

Lieuwen, Edwin, Arms and Politics in Latin America (New York: Praeger, 1961).

_____, Generals vs. Presidents: Neomilitarism in Latin America (New York: Praeger, 1964).

Macdonald, Robert W., The League of Arab States (Princeton: Princeton University Press, 1965).

Manger, William, Pan America in Crisis; the Future of the OAS (Washington: Public Affairs Press, 1961).

McArdle, Catherine, "The Role of Military Assistance in the Problem of Arms Control: The Middle East, Latin America, and Africa," Research Paper C/64-24 (Cambridge, Mass.: Center for International Studies, M.I.T., 1964).

Mecham, J. Lloyd, A Survey of United States-Latin American Relations (Boston: Houghton Mifflin Company, 1965).

_____, The United States and Inter-American Security, 1889-1960 (Austin: University of Texas Press, 1961).

"Mission Completed: A Dispute between Haiti and the Dominican Republic," Americas, Vol. 1, No. 6 (August, 1949).

OAS, Council, Letter from the Ambassador, Representative of Chile to the Chairman of the Council of the OAS, dated June 27, 1962, OEA/Ser. G./V, C-d-1000 (English) (Washington: Pan American Union, 1962).

OAS, Fifth Meeting of Consultation of Ministers of Foreign Affairs, Report of the Inter-American Peace Committee to the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Doc. 5, 6 August 1959 (Washington: Pan American Union, 1959).

OAS, Inter-American Juridical Committee, Study by the Inter-American Juridical Committee of the Proposal of Ecuador Concerning the Inter-American Peace Committee, Doc. CIJ-50 (Washington: Pan American Union, 1959).

OAS, Inter-American Peace Committee, Report of the Inter-American Peace Committee to the Eighth Meeting of Consultation of Ministers of Foreign Affairs, 1962, OEA/Ser. L/III CIP/1/62 (Washington: Pan American Union, 1962).

_____, Report of the Inter-American Peace Committee to the Second Special Inter-American Conference on the Activities of the Committee since the Tenth Inter-American Conference, 1954-1965, OEA/Ser. L/III/II. 10 (Washington: Pan American Union, 1965).

_____, Statutes, Approved by the Council of the Organization of American States on May 9, 1956, OEA/Ser. L/III/I.1 (Washington: Pan American Union, 1963).

OAS, Second Special Inter-American Conference, Final Act, OEA/Ser. C/I. 13 (Washington: Pan American Union, 1965).

_____, Report of the Inter-American Peace Committee on the Amendment of its Statutes, Submitted to the Second Special Inter-American Conference, Doc. 14, OEA/Ser. E/XIII. 1 (Washington: Pan American Union, 1965).

_____, Special Report of the Inter-American Peace Committee called for in Paragraph 3 of Resolution IV of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Submitted to the Second Special Inter-American Conference, Doc. 39, OEA/Ser. E/XIII. 1 (Washington: Pan American Union, 1965).

OAS, Segunda Conferencia Interamericana Extraordinaria, Actas y Documentos, Vol. IV (Washington: Pan American Union, 1965).

OAS, Tenth Inter-American Conference, Second Report of the Inter-American Peace Committee, Submitted to the Tenth Inter-American Conference, Doc. 11, SG-11, 3 February 1954 (Washington: Pan American Union, 1954).

OAS, Tenth Meeting of Consultation of Ministers of Foreign Affairs, Resolutions Approved by the Tenth Meeting of Consultation of Ministers of Foreign Affairs as of June 2, 1965, Doc. 78, OEA/Ser. F/II. 10 (Washington: Pan American Union, 1965).

Palmer, Gerald E. H., compiler, Consultation and Co-operation in the British Commonwealth (London: Oxford University Press, 1934).

Pan American Union, Improvement and Coordination of Inter-American Peace Instruments, Vols. 1(n.d.), 2 (1943), and 3 (1941) (Washington: Pan American Union).

_____, Legal Division, Department of International Law, Applications of the Inter-American Treaty of Reciprocal Assistance, 1948-1956 (Washington: Pan American Union, 1957).

_____, Status of Inter-American Treaties and Conventions (Revised to September 1, 1963) (Washington: Pan American Union, 1963).

Parker, Franklin D., The Central American Republics (London: Oxford University Press, 1964).

Patch, Richard W. "Peasantry and National Revolution: Bolivia," Expectant Peoples: Nationalism and Development, K. H. Silvert, ed. (New York: Random House, 1963).

PEP (Political and Economic Planning) European Organizations (London: George Allen & Unwin Ltd, 1959).

Prebisch, Raul; Jose Antonio Mayobre, Felipe Herrera, Carlos Sanz de Santamaria, "Proposals for the Creation of the Latin American Common Market," International Legal Materials, Vol. IV, No. 4 (July, 1965).

Ronning, C. Neale, Punta del Este: The Limits of Collective Security in a Troubled Hemisphere, Occasional Paper No. 3 (New York: Carnegie Endowment for International Peace, 1963).

Scott, James Brown, ed., The Hague Conventions and Declarations of 1899 and 1907 (New York: Oxford University Press, 1915).

_____, ed., The International Conferences of American States, 1889-1928 (New York: Oxford University Press, 1931).

"Segunda Conferencia Interamericana Extraordinaria," Mexico de Hoy, Vol. XVII, No. 181 (November, 1965).

Silvert, K. H., ed., Expectant Peoples: Nationalism and Development (New York: Random House, 1963).

The Department of State Bulletin, August 24, 1940, April 23, 1951.

The New York Times, November 30, December 8, 13, 27, 1949; November 26, 1951; January 10, 11, 15, 16, 18, 21, 29, April 4, 1964; March 13, April 2, 1966.

Thomas, Ann van Wynen, and A. J. Thomas, Jr., The Organization of American States (Dallas: Southern Methodist University Press, 1963).

Toynbee, Arnold J., ed., British Commonwealth Relations; Proceedings of the First Unofficial Conference at Toronto, 11-21 September 1933 (London: Oxford University Press, 1934).

United Nations, The Economic Development of Latin America in the Post-war Period, E/CN.12/659/Rev.1 (New York: United Nations, 1964).

_____, Towards a Dynamic Development Policy for Latin America, E/CN.12/680/Rev.1 (New York: United Nations, 1963).

_____, Towards a New Trade Policy for Development, E/CONF. 46/3 (New York: United Nations, 1964).

"United States Position on Nicaraguan-Honduran Conflict," The Department of State Bulletin, Vol. 36 (1957).

U.S., Department of State, Organization of American States, International Organization and Conference Series 11, American Republics 15 (Washington, 1958).

U.S., Congress, House of Representatives, Committee on Foreign Affairs, Hearings on the Foreign Assistance Act of 1964, 88th Cong., 2nd sess. (Washington, 1964).

U.S., Department of State, Tenth Inter-American Conference, Caracas, Venezuela, March 1-28, 1954; Report of the Delegation of the United States of America with Related Documents, International Organization and Conference Series II, American Republics 14 (Washington, 1955).

U.S., President's Committee to Study the United States Military Assistance Program, Composite Report, Vol. II (Washington, 1959).

Whitaker, Arthur P., ed., Inter-American Affairs, 1941, An Annual Survey: No. 1 (New York: Columbia University Press, 1942).

_____, "Nationalism and Social Change in Latin America," Politics of Change in Latin America, Joseph Maier and Richard W. Weatherhead, eds. (New York: Praeger, 1964).

Wolf, Charles, Jr., "Defense and Development in Less Developed Countries," RAND Corp. Paper P-2291-1 (Santa Monica, California: The RAND Corporation, 1961).

Wolf, Charles, Jr., "The Political Effects of Military Programs: Some Indications from Latin America, ORBIS, Vol. VIII, No. 4 (Winter, 1965).